



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 7856-25
Ref: Signature Date

[REDACTED]

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 10 September 2025. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the Kurta Memo, the 4 April 2024 guidance from the Under Secretary of Defense for Personnel and Readiness relating to the consideration of cases involving both liberal consideration discharge relief and fitness determinations (Vazirani Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo) (collectively the “Clarifying Guidance”).

A review of your record shows that you enlisted in the Navy and commenced active duty on 22 June 1994. On 15 March 1997, you received nonjudicial punishment for unauthorized absence and using disrespectful language. On 22 March 1997, you received nonjudicial punishment for failing to go to your appointed place of duty. Consequently, you were notified of the initiation of administrative separation processing and your rights in connection therewith. Your commanding officer transmitted notice of your administrative separation to the separation authority. According to the comments of your commanding officer, you were “incapable of adhering to rules and regulations of the Navy and this command. He is simply unwilling to conduct himself in a manner conducive to good order and discipline.” On 29 April 1996, you

were discharged with a General (Under Honorable Conditions) characterization of service due to misconduct – commission of a serious offense.

In your petition, you request to have your discharge changed to reflect you received a military disability retirement. In support of your request, you assert that the Department of Veterans Affairs (VA) awarded you a 70% disability rating for post-traumatic stress disorder (PTSD). In addition, you provided a letter from a medical provider, dated 2 January 2023, reflecting a diagnosis of PTSD and generalized anxiety disorder.

The Board carefully reviewed your petition and the material that you provided in support of your petition, and disagreed with your rationale for relief. In keeping with the letter and spirit of the Clarifying Guidance, the Board gave liberal and special consideration to your record of service, and your contentions about any traumatic or stressful events you experienced, and their possible adverse impact on your service. As set forth in the Vazirani Memo, the Board first applied liberal consideration to your assertion that your mental health condition potentially contributed to the circumstances resulting in your discharge to determine whether any discharge relief is appropriate. After making that determination, the Board then separately assessed your claim of medical unfitness for continued service due to your mental health condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

Thus, the Board began its analysis by examining whether your mental health condition actually excused or mitigated your discharge. On this point, the Board acknowledged that you have been diagnosed with PTSD and generalized anxiety disorder post-service, which includes a disability rating for PTSD by the VA. In light of this, the Board considered whether your condition adversely impacted your service. In addition, the Board also applied the rubric set forth in the Wilkie Memo and considered whether there was a basis to apply clemency or mitigation to your discharge. In its review of the entirety of the available materials, and in its application of liberal consideration, the Board was unable to find an error or injustice in your naval record with respect to your discharge. The Board considered that there was insufficient evidence connecting your misconduct in service to your mental health diagnoses over twenty years after your service. In fact, the Board found no evidence in your available service records, and you provided none, that tended to demonstrate that your misconduct on active duty was related to any mental health condition.

After making that determination, the Board then separately assessed your claim of medical unfitness for continued service due to a mental health condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration. In reaching its decision, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System (DES) with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness

even though, standing alone, are not separately unfitting. In addition, the Board observed that it applies a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. In your case, the Board was unable to find any evidence contemporaneous to your service tending to demonstrate that you were unable to perform the duties of your rate as a result of a mental health condition such as PTSD. In addition, the Board found that you provided insufficient evidence to support that you were unfit at the time of your service due to your mental health condition. The Board was not persuaded by the post-service findings by the VA that you provided because such findings did not sufficiently demonstrate that you were unfit at the time of your active service. On this point, the Board observed that the VA does not make determinations as to fitness for service as contemplated within the service disability evaluation system. Rather, eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated.

In sum, in its review and liberal consideration of all of the evidence and its careful application of the Clarifying Guidance, the Board did not observe any error or injustice in your naval records. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

9/29/2025

