



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 8324-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 January 2026. 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness relating to the consideration of requests for modification of discharge due to mental health conditions, sexual assault, or sexual harassment (Kurta Memo) as well as 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) (collectively the "Clarifying Guidance").

The Board determined that your personal appearance with or without counsel would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your naval record reveals that, after a previous period of Honorable service, you reenlisted in the Navy on 13 March 2001. While in service, on 18 December 2002, you were reviewed by a Medical Evaluation Board (MEB), which addressed your plantar fasciitis condition. You were thereafter referred to be reviewed by an Informal Physical Evaluation Board (IPEB). The IPEB published its finding, on 5 September 2003, reporting that it found you unfit due to plantar fasciitis, and assigned a service disability rating of 10%. On 9 September

2003, you accepted the findings of the IPEB. On 15 November 2003, in accordance with the finding of the IPEB, you were discharged due to disability with severance.

In 2011, you filed an application with the Physical Disability Review Board (PDBR). According to a report of the PDBR, you contended in your application that “[s]ome service-connected disabilities was not evaluated or not rated as a dischargeable disability until member was discharged.” On 27 June 2012, the PDBR denied your application and issued a decision setting forth its rationale for denial. In its rationale, the PDBR confirmed that the scope of its review were those conditions for which you were reviewed by the IPEB, and it did not cover conditions that were rated by the Department of Veterans Affairs (VA). Ultimately, the PDBR found that the IPEB properly rated your plantar fasciitis condition. By letter dated 19 July 2012, the Department of the Navy Council of Review Boards (CORB) informed your that your PDBR request was denied, explaining that the Assistant General Counsel (Manpower & Reserve Affairs) accepted the recommendation of the PDBR that no change be made to the characterization of separation or disability rating assigned by the IPEB. The CORB further explained that the decision represented final action in your case “by the Department of the Navy and is not subject to appeal or further review by the Board for Correction of Naval Records.”¹

In your application to this Board, you request to have your discharge due to disability with severance changed to a service disability retirement. In support of your request, you aver that you were discharged from the Navy after the PEB assigned you a 10% disability rating solely for plantar fasciitis. You argue that other service-connected conditions, including sleep apnea, chronic migraines, and a back condition, were not evaluated at that time. Additionally, in 2012, approximately nine years after your discharge, you were diagnosed with service connected post-traumatic stress disorder (PTSD); which the VA assigned a 100% disability rating. You argue that you had additional VA ratings, including a 50% rating for chronic sinusitis in 2022 and a 20% rating for diabetes in 2024.

The Board carefully reviewed your contentions and the material that you submitted in support of your request, and it disagreed with your rationale for relief. In reaching its decision, 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. Further, in light of the fact that in your application you raised your post service PTSD diagnosis by the VA, the Board also fully considered the Clarifying Guidance and followed the Vazirani Memo. Thus, it 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 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.

¹ Despite the finding of the PDBR, which explained that its finding is not subject to appeal by this Board, the Board determined that the claims in your current application relate to matters that were not considered by the PDBR. Thus, the Board determined it was appropriate to review your petition on its merits.

Therefore, the Board began its analysis by examining whether your mental health condition actually excused or mitigated your discharge. On this point, the Board considered that you were diagnosed by the VA, post-service, to have PTSD. Thus, for the purposes of application of the Clarifying Guidance, the Board considered this diagnosis in deciding whether discharge relief is appropriate in your case. Despite its application of special and liberal consideration to your request, the Board was unable to find an error or an injustice in your discharge and its characterization. Specifically, you were separated due to a disability with severance after review by and IPEB and you were assigned an Honorable characterization of service as well as an appropriate separation program designator and reentry code. Thus, in light of the foregoing, the Board found there was no relief that it could provide you with respect to the basis and description of your discharge.

After making that determination, the Board then separately assessed your claim that the IPEB erred when it made its finding of your unfitting condition without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration. Here, the Board was unable to find an error or injustice in your record relating to your review within the disability evaluation system while you were in service. In reaching this decision, the Board applied the aforementioned presumption of regularity, and it determined that the evidence you provided was insufficient to overcome the presumption of regularity. Specifically, the Board noted that available records demonstrate that you were reviewed by a MEB, referred to, and reviewed by, an IPEB, and that you accepted the findings of the IPEB. After your discharge, you sought review by the PDBR. Thus, it appeared to the Board that you were appropriately reviewed at each stage of the available process, and it determined you did not provide sufficient evidence to demonstrate any errors or injustices occurred during this review process. In addition, the Board was not persuaded by your reliance on post-service disability ratings from the VA. The Board found your reliance upon such post-service findings by the VA granting you service connected disabilities to not be persuasive because the Board noted 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. Accordingly, the Board found that you provided insufficient evidence to overcome the presumption of regularity that you were appropriately reviewed with the disability evaluation system while you were in service. In conclusion, 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 and it denied your petition in.

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,

1/26/2026

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Executive Director

Signed by: █