



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

██████████
Docket No. 8855-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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 8 April 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 (Kurta Memo) and 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 your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your naval record reveals that you enlisted in the Navy and commenced active duty on 14 July 2000. On 31 August 2000, while at Recruit Training Center, Great Lakes, you underwent a Recruit Mental Health Evaluation and were diagnosed you with Separation Anxiety Disorder (Existing Prior to Entry). In the evaluation notes, the psychologist wrote:

From childhood, SR has had difficulty being away from his mother. He states that he was inconsolable at school when younger and his mother would often need to

pick him up. Later in college, SR would be excused from class two hours early 2-3 times per week to go home to see his mother. At work, he reported calling her every 15 minutes. He states that he would never leave her alone and drives her everywhere. Reports once bringing her the wrong ice cream flavor and burning his hand in an effort to punish himself. Since arrival, SR has not been able to eat or sleep because his mother is not with him. Excessive fear that his mother is dying and frequent nightmares that she will lose her son from crying a lot. SR will not be able to perform in the [division].

The staff psychologist ultimately recommended that you be separated from service via an entry level separation (ELS) “due to [a] disqualifying psychiatric condition affecting SR’s potential for performance of expected duties and responsibilities while on active duty.” Based on this medical recommendation, you were notified of the initiation of administrative separation processing and your rights in connection therewith. In response, you waived your right to speak with counsel and you did not submit a statement to the separation authority. In your administrative separation paperwork, your commanding officer cited “defective enlistment and induction due to erroneous enlistment as evidenced by separation anxiety disorder” as the reason for your administrative separation. Thereafter, on 11 September 2000, you were discharged from active duty with an uncharacterized ELS with a total of one month and 27 days of service.

In your application to this Board, you requested that your naval records be changed: (1) from erroneous entry to reflect you were placed on the Permanent Disability Retired List (PDRL); and (2) from an uncharacterized ELS to either Honorable or General (Under Honorable Conditions). You contended that at the time of your discharge, you suffered from mental health conditions for which you should have been referred for a fitness determination. You further asserted that your mental health conditions likely would have rendered you unfit for continued service had they been evaluated prior to your discharge. In further support of your contentions, you provided documentation from a U.S. immigration court, which reflect its discussion that, while you were a child, you suffered significant trauma over a period of years. The documents you provided further explained that you suffer severe instances of post-traumatic stress disorder (PTSD), sleep paralysis, anxiety, and bipolar disorder, all as a result of the abuse that you suffered as a child between the approximate ages of six through 18. Those records also reflected that in 2013, you pleaded guilty to offenses relating to child sexual abuse and that you were sentenced to a period of incarceration for those offenses.

The Board carefully reviewed your petition and all of the materials that you provided with your petition and ultimately disagreed with your rationale for relief. In its review of your petition, the Board applied liberal consideration as set forth in the Clarifying Guidance and in particular, the Vazirani Memo. According to the Vazirani Memo, under circumstances where a petitioner seeks both discharge relief as well as a service disability retirement based on the assertion that they were medically unfit to serve, the Board first applies liberal consideration to the assertion that PTSD or military sexual trauma (MST) potentially contributed to the circumstances resulting in discharge to determine whether any discharge relief is appropriate. After making that determination, the Board then separately assesses your claim of medical unfitness for continued service due to PTSD or MST 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

addition, the Board also noted 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.

The Board thus first considered whether you provided sufficient evidence for the granting of discharge relief. In reviewing this aspect of your request, the Board applied liberal consideration and, despite its application of such consideration, determined that relief was not warranted. In reaching its decision, the Board considered that, at the time you served, when service members are separated within 180 days of their entry onto active duty, their separation is deemed an ELS. By Navy policy, an ELS is "Uncharacterized" unless unusual circumstances warrant an Honorable or Other Than Honorable characterization of service. Further, the Board also observed that your Uncharacterized ELS was not as a result of misconduct, thus, it would be inappropriate to evaluate whether a mental health condition (the existence of which is not in dispute) mitigated or excused misconduct that did not, in fact, occur. Your discharge, instead, reflects the fact that you entered service already suffering from a disqualifying medical condition, and Navy policy authorized your ELS in such circumstances. In light of the foregoing, the Board thus concluded that you failed to overcome the presumption of regularity, and failed to satisfy your burden to prove, by a preponderance of the evidence, that the Navy erred when it separated you from service with an uncharacterized ELS.

The Board then assessed your claim of medical unfitness for continued service due to PTSD, as well as for the other conditions that you asserted, as discreet issues, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration. In your case, the Board considered that you were actually evaluated by a medical provider while you were in service, and the provider determined that you suffered from medical conditions that existed prior to a service. The Board further observed that medical conditions that existed prior to a member's entry onto active duty, and which were not aggravated by active military service, cannot form the basis for an unfit finding and are not compensable through the service Disability Evaluation System (DES). In its review of the entirety of the available record, the Board found that you provided insufficient evidence to overcome the presumption of regularity and to prove, by a preponderance of the evidence, that the Navy erred when it separated you by ELS based on your preexisting separation anxiety disorder diagnosis, instead of referring you to the DES for an evaluation of fitness and potential disability separation or retirement. In sum, following its review of the evidence, the Board found that you failed to meet your burden to prove, by a preponderance of the evidence, that the Navy's actions at the time of your discharge were erroneous.

Finally, having found the Navy's action in this case not to be erroneous, the Board turned its attention to whether those were unjust, despite being appropriate under then-applicable standards and procedures. Following its deliberations, the Board found that you failed to show by a preponderance of the evidence that the circumstances of your case were such that a formally correct action nevertheless resulted in injustice.

Accordingly, given the totality of the evidence of record, the Board determined that your application 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,

4/23/2026

