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

[redacted]
Docket No. 12242-25
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.

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.

A review of your record shows that you enlisted in the U.S. Navy and commenced active duty on 14 December 2016.

On 29 July 2020, you presented to Naval Medical Center, [redacted] complaining of knee pain. Although x-rays taken approximately one week earlier were normal, you described progressive weakness, cracking, and popping following what you describe as a patellar dislocation the previous year (for which you did not seek treatment).

On 8 March 2021, you fell down a ladder well while aboard [redacted] and presented to the [redacted] complaining of foot and back pain.

In March 2022, you were involved in a motor vehicle accident, after which you complained of radiating low back pain and right-sided lower extremity pain (extending from your hip to your knee). In July 2022, you were granted a Physical Readiness Test (PRT) waiver due to those injuries.

In the midst of these orthopedic injuries, you sought treatment for depression and anxiety. A treatment note from 22 October 2020 describes the onset of these symptoms:

> "Patient presented to the clinic as a walk in, via telephone, referred by FFSC after two sessions. He endorsed symptoms of depression and anxiety in the context of occupational stress, interpersonal stress, and chronic pain. Symptoms started when he got to his ship three to four years ago, caused by high OPTEMPO, and has worsened over the last four months due to the mixture of pain in his knee, stress about his family, and OPTEMPO. Patient dislocated his knee a year ago, and has been in treatment, but the pain is continually getting worse, feeling an 8/10 pain after only a few hours of standing. He is currently engaged, has two children, and one expected, but one child has just been diagnosed with Down Syndrome. Patient currently experiences depression and anxiety daily, on and off throughout the day, and also has thoughts of suicide a few times per week, since 05OCT2020. While on underway he had SI for the first time and planned to attempt suicide via jumping from the 03 level to the flight deck. He states that someone found him and prevented him from attempting. Patient has not attempted since, but has thoughts frequently of jumping from a high place or death by asphyxiation via hanging. Last SI was 15OCT2020, and he expressed that his COC has reduced his workload to give him time to help his family, which has prevented him from having SI since. Patient also disclosed he attempted to harm himself without the intent to die in late SEP2020. He stated that his pain was so immense that he picked up a wrench with the intentions of hitting himself in the leg to feel a different pain, but someone prevented him from acting. Patient reported occupational impairment due to lack of concentration which his COC and peers have mentioned to him recently."

After more than two years of mental health treatment, on 3 November 2022, you were referred to the Disability Evaluation System (DES) for a determination of fitness due to "Dysthymic Disorder/Persistent Depressive Disorder with Anxious Distress." The Non-Medical Assessment drafted by your commanding officer in connection with your DES referral describes your work performance as being impacted by both physical and mental health-related symptoms; however, it does not describe the degree to which your knee and low back-related conditions contributed to your overall impairment.

Five days later, you asked your referring physician to include your lower back-related condition as an additional referred condition for the Physical Evaluation Board's (PEB) fitness review. Despite your request, neither your referring physician nor any other medical provider referred any of your orthopedic conditions to the PEB for a fitness review.

On 10 January 2023, you again sought treatment for radiating back pain, at which time you were diagnosed with mildly bulging lumbar discs, which a March 2023 follow-up MRI confirmed to represent mild T12-L1 disc degeneration. Your military medical record shows no further follow-up consultations for low back-related care. You continued to complain of knee pain, though a July 2023 treatment note describes a "reassuringly normal physical exam," with a recommendation that you engage in physical therapy.

In the meantime, the PEB found you unfit for Dysthymic Disorder for which you were assigned a preliminary disability rating of 50%. Although given the opportunity to raise your orthopedic conditions for the PEB's consideration, you chose to waive your right to submit a statement in rebuttal to your DES referral, to waive your right to submit a personal statement, to not pursue a

narrative summary addendum, and to waive your right to proceed to the Formal PEB (and any appellate rights arising from that Formal PEB). Shortly thereafter, on 28 July 2023, you were discharged from the Navy and placed on the Permanent Disability Retired List (PDRL) with a 50% disability for dysthymic disorder (i.e., you were not found unfit due to any orthopedic condition).

Following your transfer to the PDRL, you chose to proceed with surgical treatment of your right knee. Thus, two years after your discharge, in October 2025, you underwent: (1) right knee arthroscopy with chondroplasty of the patella; (2) right arthroscopic lateral release; (3) right tibial tubercle osteotomy; and (4) right medial patellofemoral ligament reconstruction with allograft.

In your application to this Board, you requested that your naval records be changed to reflect unfitness for service due to knee and thoracolumbar disabilities. You contend that pain from knee and back injuries sustained while on active duty contributed to your worsening mental health condition, for which the PEB ultimately found you unfit for continued service. You therefore contend that those knee and back injuries should be recognized as additional unfitting conditions, and your PEB finding should be changed to reflect that determination.

The Board notes that, in evaluating the official actions of public bodies and officers, it is bound to employ the presumption of regularity. Under that presumption, in the absence of substantial evidence to the contrary, the Board will presume that such public bodies and officers have properly discharged their official duties.

The Board carefully reviewed your application, supporting materials, and military record and ultimately concluded 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 (i.e., that the actions materially departed from then-applicable processes or standards, or that judgments made in the course of those actions were irrational) or unjust (i.e., that the actions, though not erroneous, were unjust under the particular circumstances of the case, either at the time or in retrospect).

In reaching its decision, the Board observed that in order to be found unfit through the DES, and thus to qualify for military disability benefits, a service member must be unable to reasonably perform the duties of their office, grade, rank or rating as a result of a qualifying disability that was incurred or aggravated during active military service. In evaluating whether a member can reasonably perform their duties, an evaluating PEB must consider deployability, common military tasks, physical fitness, and special qualifications. Alternatively, a member may be found unfit if: (1) their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; (2) the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or (3) the member possesses two or more conditions that have the overall effect of causing unfitness even though each condition, standing alone, is not separately unfitting.

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 granted you a disability retirement and placed you on PDRL solely on the basis of your mental health condition.

As an initial matter, the Board noted that, in your application, you did not ask the Board to revisit the PEB's unfitness determination regarding your mental health condition. Therefore, the Board confined its analysis solely to the question of whether the evidence of record proves your contention that your knee and thoracolumbar conditions should also have been found to be unfitting during the DES process.

The Board noted that although there is no contemporaneous evidence of the injury, you contend that in 2019, you dislocated your right patella (kneecap) when you struck it on a ship's scuttle. You reported re-setting the kneecap without medical assistance and chose not to report the injury nor to seek treatment for it. While proceeding through the DES (to which you were referred in 2022 due to your mental health condition), you continued to complain (though infrequently, according to your Navy medical record) of right knee pain and weakness. However, your Navy providers did not identify a significant structural injury (your only formal diagnosis was "knee pain") and prescribed only conservative treatment.

Finally, although you contend in your application that the PEB should have found your right knee and back injuries to constitute additional unfitting conditions: (1) after you requested that your referring medical provider include your back-related condition as an additional referred condition for purposes of your medical board, no action was taken with respect to that request; (2) you waived your right to submit a statement in rebuttal to his DES referral (i.e., you could have argued at the outset of your DES case, but did not, that your knee and back conditions should have been referred to the PEB); (3) you chose not to submit a personal statement in connection with your DES referral, in which you could have articulated why your knee and back conditions rendered you unfit for duty; (4) you chose not to contest your Informal PEB findings (i.e., unfit only for dysthymic disorder) by proceeding to the Formal PEB (through which you could have argued, through Navy-provided counsel, that your knee and back conditions rendered you unfit); and (5) you affirmatively accepted your Informal PEB finding.

The Board found it compelling that: (1) no Navy medical provider considered your orthopedic conditions to be appropriate for referral to the DES (even after you specifically asked them to make such a referral); (2) there is no evidence in the record that your limited duty restrictions included any limitations associated with an orthopedic injury; and (3) the DES process afforded you many opportunities (including through assigned legal counsel at two different stages of the DES process) to raise your orthopedic conditions to the PEB's attention for a fitness assessment, and you consistently chose not to exercise your right to do so.

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. Then, having found the Navy's actions in this case not to be erroneous, the Board turned its attention to whether those actions 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 unique circumstances of your case were such that a formally correct action nevertheless resulted in injustice.

Accordingly, given the totality of the record evidence, 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

[redacted]