



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

[REDACTED]  
Docket No: 240-21  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED],  
XXX-XX-[REDACTED] USN

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Psychiatric Advisor CORB letter 1910 CORB: 002 of 9 December 2021  
(3) Director CORB letter 1910 CORB: 001 of 9 December 2021

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to place him on the disability retirement list.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 16 December 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner entered active duty with the Navy in September 2010. He subsequently suffered a stroke in October 2014 that resulted in a medical board diagnosis of Ischemic Stroke, Depressive Disorder, and Anxiety Disorder on 10 November 2014 and a referral to the Physical Evaluation Board (PEB). The PEB found Petitioner unfit for Ischemic Stroke and assigned him a 100% disability rating on 10 March 2015. As a result, he was released from active duty on 27 April 2015 and transferred to the Temporary Disability Retirement List.

c. On 1 April 2019, Petitioner was medically screened for employment overseas and cleared. Based primarily on the medical screening and his employment with [REDACTED], the PEB found Petitioner fit to return to active duty. A formal hearing conducted on 27 October 2020 affirmed the findings of the informal PEB despite evidence his overseas employment offer was rescinded due to his medical condition. Petitioner was subsequently discharged from the Navy after his PEB case was finalized in November 2020.

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d. In correspondence attached at enclosures (2) and (3), the office having cognizance over Petitioner's request to be placed on the disability retirement list determined that the evidence supports relief. The enclosures concluded that the PEB erroneously relied on the April 2019 medical screening in making their findings when Department of Veterans Affairs (VA) medical records documented Petitioner's continued Depressive Disorder symptoms related to his stroke. Based on the VA records, the enclosures recommend placing Petitioner on the Permanent Disability Retirement List with a disability rating of 30% for Unspecified Depressive Disorder (Residual of Ischemic Stroke).

#### CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting relief. In this regard, the Board concurred with the Advisory Opinions at enclosures (2) and (3). Specifically, the Board determined that the preponderance of the evidence supports a finding that Petitioner was unfit for continued naval service, under the criteria contained in 38 CFR § 4.130, due to his Depressive Disorder as evidenced by the medical evidence and his disqualification from overseas employment.

#### RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner's naval record be corrected by placing Petitioner on the Permanent Disability Retirement List for Unspecified Depressive Disorder (Residual of Ischemic Stroke), VASRD Code 8009-9435, at 30% effective the date of his discharge from the Navy.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

12/17/2021

[REDACTED]

Deputy Director

Signed by: [REDACTED]