



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

[REDACTED]
Docket No: 848-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED] [REDACTED] USN,
[REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) Psychiatric Advisor, Secretary of the Navy, Council of Review Boards (CORB) ltr 1910 CORB: 002 of 6 January 2022
(3) Director, CORB ltr 1910 CORB: 001 of 13 January 2022

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 by providing that he be medically retired for the injuries he sustained as a Navy Reservist mobilized and deployed to Afghanistan, or in the alternative referred to the disability evaluation system.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 February 2022 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, as well as enclosures (2) and (3).

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. From December 2016 to December 2017, the Petitioner served in [REDACTED]. The Applicant incurred a left shoulder injury with resultant persistent left shoulder pain and developed multi-joint pain while on his mobilization and deployment to [REDACTED] in support of Operation Enduring Freedom. At the time of his demobilization, the Petitioner was not offered to be placed into medical hold or offered Line of Duty (LOD) benefits.

c. The enclosure (2) AO sets forth the Petitioner's efforts to address his injuries through line of duty (LOD) benefits as well as through the disability evaluation system (DES), which includes several rounds of evaluations and findings. The Petitioner was ultimately diagnosed with an immune-mediated polyarthralgia and found Not Physically Qualified for Continued Reserve

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Status (NPQ) based on the absence of LOD. Based on his NPQ finding, the Petitioner was separated from the Navy Reserve on 10 June 2020.

d. In connection with reviewing his petition, the Board requested the enclosure (2) AO, which included evaluating its enclosure (3) endorsement, which includes a succinct summary of the AO.¹

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial relief. Specifically, the Board concurred with the findings of the AO, and determined that the proper course of action would have been placement into medical hold at the time of Petitioner's demobilization examination, with referral into the DES. Had that occurred, the Board agreed with the AO that he would have been found unfit and placed on the Permanent Disability Retirement List with a 60% rating for his multiple disability conditions.

RECOMMENDATION

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

Petitioner's naval record be corrected by reflecting that, while he was on active duty, he was found Unfit for the below disability conditions and placed on the Permanent Disability Retirement List, with a combined rating of 60%, effective 10 February 2018.

1) LEFT SHOULDER PAIN, VA Diagnostic Code (DC) 5201, rated at 20%, not combat related (NCR), but incurred in a combat zone (CZ); stable

2) POLYARTHRALGIA, BILATERAL HANDS RATED AS LEFT HAND LONG FINGER POLYARTHROSIS (LIMITATION OF MOTION), VA DC 5229, rated at 10%; not combat related (NCR), but incurred in a combat zone (CZ); stable

3) POLYARTHRALGIA, BILATERAL HANDS RATED AS RIGHT HAND LONG FINGER POLYARTHROSIS (LIMITATION OF MOTION), VA DC 5229, rated at 10%; not combat related (NCR), but incurred in a combat zone (CZ); stable

4) POLYARTHRALGIA, BILATERAL HANDS RATED AS LEFT THUMB POLYARTHROSIS (LIMITATION OF MOTION), VA DC 5228, rated at 10%; not combat related (NCR), but incurred in a combat zone (CZ); stable

¹ According to the enclosure (3): The Applicant's medical complaints of shoulder pain and multi-joint pain are well documented across several in-theater clinical encounters and persisted through his demobilization medical examination. The evidence clearly establishes these conditions were incurred during the course of a 12-month mobilization and deployment.

The initial injustice to this Applicant occurred at the time of his demobilization. A thorough review of the record establishes that the Applicant was not fit to demobilize at that time, and should have been offered Medical Hold, or Line of Duty Benefits as an alternative, as per SECNAVINST 1770.5. Correction of this error is recommended. Had the Applicant been placed on MEDHOLD at the time of his demobilization physical exam, it is reasonable to conclude that similar examinations, assessments, diagnoses, and plans of care undertaken by the VA Rheumatology and Orthopedic Clinic would have been executed by Department of the Navy medical facilities.

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[REDACTED]

5) POLYARTHRALGIA, BILATERAL HANDS RATED AS RIGHT THUMB POLYARTHROSIS (LIMITATION OF MOTION), VA DC 5228, rated at 10%; not combat related (NCR), but incurred in a combat zone (CZ); stable

6) POLYARTHRALGIA, BILATERAL HANDS RATED AS LEFT HAND INDEX FINGER POLYARTHROSIS (LIMITATION OF MOTION), VA DC 5229, rated at 10%; not combat related (NCR), but incurred in a combat zone (CZ); stable

7) POLYARTHRALGIA, BILATERAL HANDS RATED AS RIGHT HAND INDEX FINGER POLYARTHROSIS (LIMITATION OF MOTION), VA DC 5229, rated at 10%; not combat related (NCR), but incurred in a combat zone (CZ); stable

8) POLYARTHRALGIA, BILATERAL HANDS RATED AS RIGHT HAND RING AND LITTLE FINGER POLYARTHROSIS, VA DC 5003, rated at 0%; not combat related (NCR), but incurred in a combat zone (CZ); stable

That Petitioner be issued a new DD Form 214 Certificate of Discharge or Release from Active Duty, reflecting Permanent Disability Retired List, Not Combat Related narrative reason for separation, and JEB SPD code.

That no other changes be made to Petitioner's record.

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.

3/10/2022

[REDACTED]

Deputy Director

[REDACTED]