



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

[REDACTED]
Docket No: 4080-21

Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1610.10D
(c) MILPERSMAN 1900-120

Encl: (1) DD Form 149 w/attachments
(2) Fitness report for the reporting period 16 Jul 15 to 15 Jun 16
(3) [REDACTED] ltr of 11 Jul 16
(4) [REDACTED] ltr of 10 Jun 18
(5) NAVPERS 1070/615 of 4 Aug 19
(6) NPC memo 1610 PERS-32 of 28 Oct 21
(7) CNPC ltr 5400 Ser 95/513 of 20 Dec 21
(8) NPC memo 1900 PERS-312/DV of 15 Feb 22

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her naval record be corrected by (1) removing duplicate fitness reports for the reporting period 16 July 2015 to 15 June 2016 from her record; (2) accepting her statement to the record in response to her adverse fitness report; (3) correct the NAVPERS 1070/615 (Record of Discharge) to reflect a medical discharge instead of being discharged at the end of her active service (EAS); and (4) that a copy of her medical records be submitted to the local Veterans Administration.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 22 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 Petitioner's 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.

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b. Although Petitioner's 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 her case on its merits.

c. On 12 June 2016, Petitioner received a Periodic/Regular fitness report for the reporting period 16 July 2015 to 15 June 2016. Petitioner's fitness report was marked 2.0 in four trait grades. Petitioner acknowledged the fitness report and marked that she intended to submit a statement. See enclosure (2).

d. On 11 July 2016, Petitioner submitted a statement in response to her adverse fitness report. See enclosure (3).

e. On 10 June 2018, Petitioner submitted a revised statement in response to her aforementioned adverse fitness report. See enclosure (4).

f. On 4 August 2019, Petitioner was discharged from the Navy Reserve at the end of her active service according to MILPERSMAN 1910-104. See enclosure (5). Petitioner was actually discharged due to a Physical Disability.

g. Petitioner contends that her Record of Discharge should reflect medical separation instead of EAS to properly reflect the Veterans Affairs finding. Petitioner claimed that she understood that the whistleblower report showed no fault by her unit and that the adverse report would be permanently located in her record, however, it should be filed correctly and with her statement.

h. On 28 October 2021, the Naval Personnel Command (NPC) (PERS-32) furnished an advisory opinion (AO). The AO noted that PERS-32 received enclosure (3), but rejected the letter due to non-compliance with reference (b), specifically, Petitioner's statement did not identify the period of the report and did not include the reporting senior (RS) endorsement. The AO also noted that enclosure (4) was not received by PERS-32. The AO offered that PERS-32 would accept the statement, if corrected, although the submission of her statement to the record has exceeded two years. The AO recommended that Petitioner correct her statements, include the RS's one-page endorsement, and re-submit them to PERS-32. In addition, the AO provided that PERS-32 already removed the duplicate evaluation reports. See enclosure (6).

i. On 22 December 2021, the Commander, Navy Personnel Command (CNPC) furnished an AO recommending a correction to Petitioner's record. See enclosure (7). The AO noted that Petitioner was found unfit for naval service by the Physical Evaluation Board (PEB) and granted a 10% disability rating, resulting in her separation with severance pay for medical reasons. The AO determined that Petitioner's Record of Discharge incorrectly refers to MILPERSMAN 1910-104, and should be updated to reflect reference (c) to accurately reflect her discharge status. The AO also recommended that Petitioner submit a request to the National Archives via [archives.gov/veterans](https://www.archives.gov/veterans) to obtain a copy of her medical record.

j. On 15 February 2022, the NPC (PERS-312) furnished an AO recommending that Petitioner's Record of Discharge be corrected to reflect reference (c). See enclosure (8).

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CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an error warranting partial corrective action. The Board substantially concurred with the AOs in Petitioner's case. In this regard, the Board noted that a PEB found Petitioner unfit for continued naval service and granted a 10% disability rating, which resulted in her separation with severance pay for medical reasons. Accordingly, the Board determined that Petitioner's Record of Discharge should be corrected to document reference (c) as her basis for discharge.

Concerning the acceptance of Petitioner's statement in response to her adverse fitness report and duplicate fitness reports, the Board determined that Petitioner has not exhausted her administrative remedies and must correct her statement to meet the requirements of reference (b) before submission to PERS-32. The Board noted that PERS-32 has corrected Petitioner's record by removing the duplicate fitness reports, therefore this request is moot.

Concerning Petitioner's request to have her medical records sent to the Department of Veterans Affairs (VA), the Board determined that this request falls outside the purview of the Board. Petitioner must submit a request to the Nation Archives via archives.gov/veterans to obtain a copy of her records in order to submit her records to the VA.

RECOMMENDATION

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

Petitioner's naval record be corrected by changing enclosure (2), her NAVPERS 1070/615 'Type of Discharge and Authority' to reflect MILPERSMAN 1900-120 (Separation by Reason of Convenience of the Government – Physical or Mental Condition) instead of MILPERMAN 1910-104.

No other changes 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 Regulations, 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.

3/7/2022

[REDACTED]
Executive Director

Signed by [REDACTED]