



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

[REDACTED]  
Docket No: 1470-22  
Ref: Signature Date

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

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

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

Encl: (1) DD Form 149 w/attachments

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 returning him to the temporarily retired disabled list (TDRL).

2. The Board, consisting of [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 25 July 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. The Petitioner enlisted in the Navy and commenced a period of active duty on 13 August 2009. On 28 July 2014, the Petitioner was placed on a limited duty status. On 25 June 2015, the Petitioner was placed on the TDRL. The Petitioner's medical board documents are not in his official military personnel folder (OMPF), and he did not provide copies of them as background to his claim. On 14 May 2020, a representative of Navy Personnel Command (PERS 95) emailed the Petitioner explaining there would be delays concerning the administration of the TDRL program as a result of the COVID pandemic. On 13 October 2021, PERS 95 emailed the Petitioner stating that he was being administratively removed from TDRL for noncompliance and, if he wanted to be evaluation for PDRL, he needed to petition this Board. The email to the Petitioner did not set forth the background of the Petitioner's noncompliance, nor did the Petitioner provide information as to his alleged noncompliance.

c. In his petition, the Petitioner requests that he be placed back on the TDRL in accordance with the suggestion of PERS 95. Petitioner contends that "the initial contact attempt went to junk email and that he did not find the message until he was contacted by personnel support. He further states that he has the required VA doctor's notes for PDRL evaluation."

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## 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 observed that the email from the representative from PERS 95 indicated that the only way by which the Petitioner could be placed back onto the TDRL is by action of this Board. The Board determined that it would be an injustice, under these specific circumstances, to have the Petitioner's disability evaluation be terminated on a basis other than its merits. The Board observed that the Petitioner provided medical documentation with his petition but it did not find this documentation to be relevant to the Board's determination that he be placed back onto the TDRL for evaluation. In making its decision, the Board took no position on the Petitioner's entitled to disability retirement.

## RECOMMENDATION

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

Petitioner was reinstated to the TDRL effective the date of this letter. The sole purpose of his reinstatement is so he may undergo a physical examination and have the Physical Evaluation Board make a final determination of his disability status in accordance with Title 10, U.S. Code, Section 1210. All due process rights associated with the Disability Evaluation System will be afforded to the Petitioner as part of the Physical Evaluation Board review.

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.

8/8/2022

[REDACTED]  
Executive Director  
[REDACTED]