



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

[REDACTED]
Docket No. 8667-22

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) 10 U.S.C. § 1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/ enclosures

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 her discharge be upgraded and that her narrative reason for separation, separation authority, separation code, and reentry code also be changed. Enclosure (1) applies.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 27 January 2023, and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, applicable statutes, regulations, and policies, to include reference (b).

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. 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 the case on its merits.

c. Petitioner enlisted in the Navy and, although she initially replied "no" for all conditions identified in the medical prescreening, indicated a history of "heart trouble or murmur" and "foot trouble" in her Report of Medical History on 30 November 1984. The responsive medical exam recorded a clinical evaluation of abnormal cardiovascular findings with a grade II systolic murmur and mitral valve prolapse. Noting that the examinee was not qualified for service due to the disqualifying defect of "mitral valve prolapse," she was recommended for further screening by a cardiac specialist for the heart murmur and for an orthopedic assessment of the torn

ligaments in her ankles. This record also includes a stamp that appears to initially recommend consideration for a waiver.

c. Over the course of December 1984, the Military Entrance Processing Station (MEPS) initial consultations proceeded. Her cardiac consultation noted that her heart murmur had been found between age 8 to 9 during a routine physical, that Petitioner had always been physically active with no restrictions on activity, that an intermittent systolic click was observed, that she had a history of receiving an echocardiogram test for which a copy should be obtained and reviewed, and that, after review and consideration of her medical exam, she was not qualified. A request for the echocardiogram was forwarded to Petitioner's civilian cardiologist, who enclosed the record of an echocardiogram which he had *recently* conducted, on 7 August 1984, to rule out mitral valve prolapse against an initial diagnosis of panic attacks; however, he reported that Petitioner was asymptomatic and had an excellent prognosis as of his treatment from August of 1984. Following receipt of this report, the record was likewise stamped that it had been reviewed and considered and that Petitioner, as an applicant, was not qualified.

d. Petitioner's initial MEPS orthopedic consultation initially noted that she had suffered bilateral sprains three times since 1980. Although the initial evaluation was considered not disqualifying, the report from her medical examination and treatment included x-rays of the previous injuries along with diagnostic information and, after being reviewed and considered at MEPS, was likewise stamped to reflect that applicant was not qualified.

e. Petitioner began active duty on 15 October 1985 and received an initial recruit screening. Her entrance medical exam and medical history were reviewed by a third class hospital corpsman with a stamp indicating that "all significant defects, if any, have been evaluated and have been determined to be non-disqualifying."

f. On 15 and 20 November 1985, Petitioner received emergency medical care for chest pain but was returned to full duty on each occasion, with directions to follow up if her symptoms continued. She subsequently reported for a follow up appointment at sick call and was referred for a medical evaluation for mitral valve prolapse. This exam indicates that Petitioner reported her heart murmur was "discovered" during her MEPS exam and that she was then referred to a cardiologist for testing. This follow up noted that her condition, which existed prior to enlistment (EPTE), was symptomatic; she was prescribed beta blockers and placed on medical hold pending recommendation by cardiology regarding a medical evaluation board (MEB). This same follow up noted that Petitioner's entrance physicals indicated a recommendation for waiver for her mitral valve prolapse.

g. A cardiology consultation on 22 November 1984 noted that Petitioner had experienced chest pains for 4 years prior to her pre-service echocardiogram and recommended an MEB for the primary diagnosis of mitral valve prolapse and secondary diagnosis of costochondritis. The MEB proceeded on 25 November 1984 with findings that both the primary and secondary diagnoses had EPTE, that neither was aggravated by service, and that she was recommended for separation due to a disqualifying medical condition.

h. Petitioner's rebuttal stated that her MEPS had "sent to Washington for a waiver allowing [her] to join the Navy even with a disqualifying condition," that she desired to continue serving, and that she did not think her condition would interfere with her ability to serve. However, Petitioner had received subsequent emergency medical care, on 29 November 1985, for continued chest pains even though she had been placed on light/limited duty.

i. The cardiologist on the MEB issued a surrebuttal to Petitioner's statement noting that Petitioner's symptoms began years prior to her recruit training and that she had required repeated medical attention within her first 4 weeks of service.

j. Petitioner was notified on 26 May 1986 of the Physical Evaluation Board (PEB) decision on her MEB recommendation, which found her physically unfit due to disqualifying medical conditions which EPTE, under diagnosis codes 39400 and 73399. Commander, Naval Military Personnel Command, directed her discharge no later than 17 April 1986. Although she was not discharged until 22 May 1986, with 7 months and 8 days of total active service, the directed date of 17 April 1986 would have placed Petitioner just over 180 days of continuous active service which necessitated a characterized versus uncharacterized period of service. As a result, she was discharged under honorable conditions, for the narrative reason physical disability EPTE on active duty established by PEB proceedings, and she was assigned a reentry code of "RE-3P."

k. After her discharge, Petitioner's former Division Master at Arms provided her with a letter of recommendation in which he described that she did an excellent job, was a good organizer and leader when given a task, accomplished tasks quickly and efficiently, always showed sound judgment in everything she did, had a good attitude, and had been a mainstay for morale in the medical company; this letter appears to intended to recommend Petitioner for military service. However, although Petitioner subsequently sought a post-discharge civilian medical evaluation which documented her condition as benign with no required restrictions on her activity level, a letter from Naval Medical Command explained that the Specialty Advisor for Cardiovascular Disease had advised that the uniformed services tended to draw a line excluding individuals with mitral insufficiency since they "are most likely to have subsequent problems with performance and disability."

l. In her application to the Board, Petitioner contends that, although the condition of costochondritis was listed as a condition of her separation and identified as existing prior to her enlistment, there was no such condition noted at any time during her entry medical examinations. She argues that applicable case law has ruled that veterans are generally presumed to have entered service in sound condition as to their health unless there is clear, unmistakable evidence the condition existed prior to acceptance and was not subsequently aggravated by service, which she believes places the burden of proof upon the Department of the Navy that her condition was not incurred by or aggravated during her service. Although her application specifies that her requested correction was continued on a separate sheet of paper and attached thereto, no supplemental page was included with her application; however, her argument as to why the correction should be made implies that she is unable to receive "correct disability compensation" due to the finding that her secondary condition of costochondritis EPTE. Petitioner's undated personal statement (which appears to be seeking service in the Army on a past occasion) asserts that this condition – which is the inflammation of the cartilage and muscles in her heart – began

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during her service, was treated, and has never returned since her discharge. Petitioner provides medical literature, regulatory references, and past decisions on other claims made to the Department of Veterans Affairs.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants favorable action in the form of partial relief. The Board reviewed her application under the guidance provided in reference (b).

The Board noted first that Petitioner's records document no misconduct or issues with performance barring her receipt of necessary medical care; in fact, Petitioner submitted evidence of the high quality of her performance and conduct during her active duty service. As a result, the Board concluded that there was insufficient evidence that her active duty service was less than fully "Honorable" and determined that her discharge under honorable conditions constituted an injustice which merits relief.

However, with respect to Petitioner's narrative reason for separation, separation code, and separation authority, upon review of all available evidence, the Board found insufficient evidence of either error or injustice. In making their finding, the Board considered the medical board report that documented her pre-existing primary conditions. To the extent that Petitioner alleges having received approval of a waiver for which the Specialty Advisory for Cardiovascular Disease, the Board concluded that, even if a waiver had been initially approved for an apparently asymptomatic disqualifying condition, such approval would not have prevented processing Petitioner for discharge due to a medically unfitting condition which was, upon entry and further medical inquiry, discovered to be symptomatic rather than asymptomatic. Therefore, upon review of the totality of evidence of record, the Board determined there is insufficient evidence to merit a change to Petitioner's discharge due to a physical disability, which existed prior to enlistment, and which was properly reviewed through the MEB and PEB processes prior to her discharge. Further, to the extent that Petitioner was assigned an "RE-3P" reentry code to ensure that an future attempts to enlist would result in more thorough medical screening, the Board likewise found no error or injustice in the valid purpose served by her reentry code and, therefore, determined that her request for a change to her reentry code does not merit relief.

Accordingly, the Board determined that it is in the interest of justice to grant partial relief only with respect to Petitioner's characterization of service.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) indicating that on 22 May 1986, her "Honorable" discharge was issued, and no other changes.

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That Petitioner be issued an "Honorable" discharge certificate.

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

A copy of this report of proceedings be filed in Petitioner's naval 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.

2/15/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]