



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

█  
Docket No. 5297-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER █, USN,  
█

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149

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 naval record be corrected by placement back on the Temporary Disability Retirement List (TDRL) or, in the alternative, placement on the Permanent Disability Retirement List (PDRL).

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 14 September 2023, 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. On 6 May 2019 the Physical Evaluation Board (PEB) found Petitioner Unfit for Major Depressive Disorder at a rating of 70% under Department of Veterans Affairs (VA) Code 9434. Petitioner was discharged on 28 August 2019 and placed on the TDRL. On 3 November 2022, Naval Personnel Command (NPC) sent a letter to the PEB stating Petitioner had exceeded her TDRL anniversary date and must be administratively removed due to failure to report for a scheduled periodic physical examination (PPE). On 7 December 2022, the PEB notified the Chief of Naval Personnel that Petitioner was administratively removed from the TDRL.

c. Petitioner claims she was removed from TDRL due to her contact information being changed and not receiving the request for the PPE. Petitioner contends she is still unfit for continued naval service and that her condition warrants her return to TDRL or placement on PDRL. The Board noted that NPC typically notifies service members that they are required to undergo a periodic physical examination in order to remain on TDRL or to be placed on PDRL.

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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 determined that no error was committed by the PEB in administratively removing Petitioner from the TDRL since it was her responsibility to maintain a current address with the Navy in order to receive TDRL related correspondence. However, the Board also determined an injustice exists in Petitioner's record that should be addressed by reinstating her to the TDRL to allow her another opportunity to attend a final periodic examination so the PEB may issue a final adjudication in his case. The Board felt denying Petitioner the potential for retirement benefits due to her lack of diligence would perpetuate an injustice since Petitioner submitted her request to be reinstated to the TDRL in a reasonable time. In making their findings, the Board also considered the Petitioner's disability condition and how it may have impacted her ability to exercise due diligence with regard to maintaining a current address with the Navy.

Despite the Board's finding that depriving her of a final examination and adjudication by the PEB would be an injustice, the Board felt placing Petitioner on the PDRL was not warranted at this time. In their opinion, there was insufficient evidence to adjudicate Petitioner's condition and determined a new examination was appropriate to allow the PEB to make an adjudication.

## RECOMMENDATION

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

Petitioner was reinstated to the Temporary Disability Retirement List effective the date of this letter. The sole purpose of her reinstatement is so she may undergo a physical examination and have the Physical Evaluation Board make a final determination of her 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.

And no other relief.

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

10/16/2023

