



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

Docket No: 6010-17

FEB 05 2018

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

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

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

Encl: (1) DD Form 149 w/attachments  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to be reinstated to the Temporary Disability Retirement List (TDRL), reactivate his security clearance, be readmitted to the Navy, and be issued a new DD Form 214.
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 18 January 2018 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. Petitioner's case was reconsidered in accordance with procedures that conform to *Lipsman v. Secretary of the Army*, 335 F. Supp. 2d 48 (D.D.C. 2004). He was previously denied relief by the Board on 13 November 2015 and 3 October 2016.
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. Petitioner entered active duty with the Navy in July 2003 and served until his placement on the TDRL on 1 July 2008. He was found to be unfit for continued naval service by the Physical Evaluation Board due to his Schizophreniform Disorder with a 30% disability rating.
  - c. On 1 March 2013, PERS-82 requested Petitioner's administrative removal from the TDRL due to his failure to complete his required periodic physical evaluation. He was directed to be removed from the TDRL by the PEB on 20 September 2013 and eventually removed.

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## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following partial corrective action.

The Board determined that Petitioner was suffering from the effects of his Schizophreniform Disorder when he failed to comply with TDRL regulations by not attending his periodic physical examination. While the Petitioner failed to provide any evidence to support an error or injustice in his record, the Board took into consideration circumstantial evidence of continued mental illness based on his personal statements contained in his multiple BCNR applications. In the Board's opinion, Petitioner deserves the benefit of the doubt, due to his diagnosed Schizophreniform Disorder, that he was negatively impacted by his condition and failed to properly comprehend TDRL requirements. The Board found evidence of his continued mental illness as sufficiently mitigating to allow him one final opportunity to be medically examined for a final PEB determination on his disability status.

Regarding the other assertions of error contained in his various statements included with his application, the Board found insufficient evidence to support a change. Therefore, the Board concluded that no additional relief was required other than Petitioner's reinstatement to the TDRL.

## RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner was reinstated to the Temporary Disability Retirement List 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.

A copy of this Report of Proceedings will 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.

[REDACTED]  
Recorder

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

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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.

[REDACTED]  
Executive Director