



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

█
Docket No. 3093-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER, █.
█, USN, XXX-XX-█

Ref: (a) Title 10 U.S.C. § 1552
(b) USD Memo, 25 Aug 17 (Kurta Memo)

Encl: (1) DD Form 149
(2) █ Medical Record, 3 Sep 21
(3) █ Medical Record, 24 Sep 21
(4) █ Medical Record, 4 Feb 22
(5) Recruit Training Command Report of Administrative Separation, 15 Feb 22
(6) Administrative Separation Notice, 15 Feb 22
(7) Certificate of Release or Discharge from Active Duty, 24 Feb 22
(8) Department of Veterans Affairs Rating Decision, 28 Jun 22
(9) Advisory Opinion by M.D., Physician Advisor, 3 April 2024

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 record be corrected by granting a medical discharge instead of an uncharacterized entry level separation for erroneous entry.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 23 May 2024 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 your application, together with all material submitted in support thereof, relevant portions of your naval record, 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. Petitioner underwent her enlistment physical examination on 31 March 2021. The examining physician documented her lower extremities as normal, but her foot examination was

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documented as abnormal and revealed bilateral mild, asymptomatic pes planus (flat feet), enclosure (2). Petitioner subsequently enlisted in the Navy and began active duty service on 17 August 2021. On 24 September 2021, Petitioner went to sick call, with complaint of leg pains. X-rays revealed stress fractures to her right and left tibias. She was treated conservatively, given crutches for non-weight bearing ambulation, placed on Light Duty, and referred to the Sports Medicine And Rehab clinic, enclosure (3). On 4 February 2022, Petitioner was recommended for Entry Level Medical Separation (ELMS) for diagnosis of restess injury to both tibias after completing rehabilitation for four months, EPTS (Existed Prior To Service). The examining physician found Petitioner had experienced repeat micro-fractures to both tibias due to a deconditioned state, enclosure (4). The Report of Administrative Separation, dated 15 February 2022, stated Defective Enlistment and Induction due to erroneous enlistment “as evidenced by a physical or mental condition that existed prior to entry into the naval service.” The Commanding Officer, Recruit Training Command informed Navy Personnel Command that “an erroneous enlistment has occurred” and that Petitioner’s “medical condition affects her potential for performance of expected duties and responsibilities while on active duty and poses a risk if she is retained in the naval service,” enclosure (5).

c. Petitioner waived consultation with counsel and the right to submit a written statement, enclosure (6). On 24 September 2022, Petitioner was discharged with an Uncharacterized Entry Level characterization of service. Her Certificate of Release or Discharge from Active Duty (DD-214) states “Erroneous entry,” as the narrative reason for separation, enclosure (7).

d. Petitioner contends her disqualifying injuries were sustained during military service and did not preexist her enlistment. To support her contention, she included a 29 March 2022 medical record and a 28 June 2022 Department of Veterans Affairs (VA) rating decision, granting service-connection for conditions to include stress fracture of the right and left tibias and right hip strain, enclosure (8).

e. The Board sought an advisory opinion (AO) from a licensed clinical physician regarding Petitioner’s allegations, enclosure (9). The medical advisor noted the designation of EPTS was inaccurate as the in-service clinical records did not document any diagnosis of a lower leg condition prior to her presentation during her recruit training. In addition, the advisor concluded in pertinent part:

At the time of separation from her initial recruit training, the preponderance of evidence supported an Entry Level Medical Separation for Petitioner’s condition of Bilateral Tibia Stress Fractures as a physical condition that rendered her unsuitable for naval service (as unable to meet the accession or retention physical qualifications), but not a condition that rendered her unfit for naval service. The preponderance of evidence did not support the contention this was an EPTS condition.

In summary, in my medical opinion, the preponderance of objective clinical evidence provides sufficient support for Petitioner’s contention her bilateral stress fracture and right hip labral tear conditions did not exist prior to service.

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However, the preponderance of evidence supported the physically disqualifying nature of these conditions, and the appropriate disposition through ELMS.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial relief. Specifically, even though the Board found no error with Petitioner's assigned uncharacterized entry level separation, the Board determined it was in the interests of justice to change her characterization of service to Honorable. The Board noted in the Report of Administrative Separation that the characterization of service directed by the Commander Officer was Honorable. That fact, combined with her active service beyond six months, was sufficient evidence of an injustice to grant the recommended relief.

Despite the Board's recommendation to grant partial relief as a matter of injustice, the Board concluded the preponderance of the evidence does not support a medical discharge. In making this finding, the Board concurred with the Advisory Opinion that her bilateral tibia stress fracture condition, despite appropriate medical treatment, precluded her ability to meet accession and retention standards but did not render her unfit for naval service. Therefore, her administrative separation through entry level separation processing was supported by the medical evidence in her case. As a result, the Board determined a medical discharge was not warranted.

RECOMMENDATION

In view of the above, the Board recommends the following corrective action:

Petitioner will be issued a new DD Form 214 and discharge certificate, for the period ending 24 February 2022, indicating her characterization of service was "Honorable."

That a copy of this report of proceedings be filed in Petitioner's naval record.

That no further changes be made to 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 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

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7/3/2024

