



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

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Docket No. 4553-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, conducted a preliminary review of your application on 14 March 2023. Subsequently, the Board considered your response to the advisory opinions (AOs) of 17 March 2023 and, after careful further deliberation, including reviewing your 17 March 2023 response, it confirmed its vote. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 to include the Kurta Memo. In addition, the Board obtained advisory opinions (AO) from Chief, Bureau of Medicine and Surgery (BUMED), as well as from a licensed clinical psychologist. These AOs were provided to you, and you provided a response to the AOs on 17 March 2024.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your petition and available documentation reveals that, on 10 May 2017, you were commissioned an ensign in the Navy Reserve. On 11 May 2017, you executed an agreement in the Armed Forces Health Professions Scholarship Program (HPSP). This agreement set forth your obligation, under certain circumstances, to repay the government the total cost of your

advanced education. On 27 February 2019, BUMED wrote to you and explained that it learned you had withdrawn from medical school, and it listed available options. In your response to BUMED, dated 20 March 2019, you chose the option to resign your commission. On 25 March 2019, Navy Personnel Command issued to you Voluntary Separation Orders and Discharge from Navy Reserve, advising you that you were discharged effective 25 March 2019.

An undated memorandum that you provided demonstrates that the Defense Finance and Accounting Service (DFAS) held a hearing in response to your request of 4 November 2022 request for a hearing, as follows:

Research shows that a hearing was previously conducted in regard to [Petitioner's] debt in the amount of \$134,966.57 on January 28, 2021 (Enclosure 1). In accordance with DoDFMR Volume 16, Chapter 4, paragraph 040201, Part A, only one hearing is authorized per debt owed to the Department of Defense, and there is no provision for review or appeal of debt determination decisions rendered with regard to administrative offset. However, it was determined that a second administrative hearing was appropriate.

Ultimately, the DFAS found that “[b]ased on a review of [Petitioner's] records, and pertinent documentation, it is determined it remains valid and the amount is correct. [Petitioner] was provided due process and collection of the debt by AWG, not to exceed 15% of disposable pay, is proper.”

In your petition, you request that the current recoupment of the Health Professions Scholarship Program be either waived or substantially reduced. In support of your petition, you argued that when you were a year away from finishing medical school you began to suffer from several mental illnesses. You explained that these mental illnesses caused you to lose touch with reality and ultimately led to you being forced out of medical school and the Navy. You argued that, facing separation, you agreed to submit your resignation, and that, at the time you signed your request for resignation, you were not properly informed that you would be required to repay the outstanding balance of tuition, and that the notice of repayment is required under MILPERSMAN 1920-190.

In order to assist it in evaluating your claim, the Board obtained the AO from BUMED, which opined:

2. [Petitioner] was a Navy Health Professions Scholarship Program (HPSP) participant, who signed a Service Agreement on 11 May 2017, which defined her benefit start date. Her name at the time was []. She voluntarily withdrew from her medical training program at █, effective 14 Dec 2018, for medical reasons. Therefore, she was separated from the Navy on 25 Mar 2019, as she was not able to fulfill her Service Agreement.

3. [Petitioner] requested two hearings with the Defense Finance and Accounting Service in (DFAS) June 2020 and November 2022. For both hearings, it was determined that the debt remains valid, the amount is correct, and that [she] was

provided due process and the collection of the debt by administrative wage garnishment, not to exceed 15% of disposable pay, was proper.

4. [Petitioner] submitted a Board of Correction of Naval Records (BCNR) via an attorney requesting that her debt is waived or reduced because the Government did not give proper notice under MILPERSMAN 1920-190. Debt recoupment is recommended, as █ withdrew from her medical training program, which made her ineligible to continue with HPSP and fulfill her Service Agreement (enclosure (2)). This service agreement addressed conditions for recoupment of HPSP. Per OPNAVINST 1520.39A of 4 April 2018 and DODI 6000.13, the Secretary of the Military Department concerned may authorize the relief of Active-Duty Obligation and recoupment.

The Board also obtained an AO from a licensed clinical psychologist. According to the psychologist, there existed “post-service evidence from civilian mental health providers of mental health concerns that contributed to her failure to fulfill her military obligation.”

You were provided copies of the foregoing AOs, and you provided a 17 March 2024 response to the AOs. The Board carefully reviewed the entirety of your response, in which you focused, in large part, on the fact that you were not “voluntarily” withdrawn from school due to mental illness, but rather you were withdrawn involuntarily. In addition, you focused on your assertion that you were not notified of the potential that you “may” be required to repay any debt.

The Board carefully reviewed your petition and the material that you provided in support of your petition, and disagreed with your rationale for relief. In reaching its decision, the Board substantially concurred with the findings of the AOs, which the Board found to be rational and reasonable. Further, the Board observed that you affirmatively requested resignation from the Navy and there is no evidence that you were threatened with administrative separation or were otherwise forced to resign. The Board found the debt to be valid, in that you signed the agreement to pay the debt, and you had two hearings before the DFAS. Despite its careful review of your petition and 17 March 2024 response to the AOs, the Board found the evidence to be insufficient to warrant relief. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

3/28/2024

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Executive Director

Signed by: █