



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. 6066-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 1 August 2024. The names and votes of the members of the panel 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. In addition, the Board considered the Naval Services Training Command (NSTC) Advisory Opinion (AO) contained in memorandum 5863/Ser. N00/335 of 19 March 2024 and the Physician Advisor, Board for Corrections of Naval Records, AO contained in memorandum Docket No: NR20230006066 of 1 June 2024. The NSTC and Physician Advisor AOs were provided to you on 3 June 2024, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit rebuttals to these AOs, you chose not to do so.

You requested to change your record to reflect your disenrollment from the Naval Reserve Officer Training Corps (NROTC) by reason of medical disqualification. Additionally, you requested your debt “be relieved given the unforeseen circumstances and valid reasoning behind [your] inability to physically perform.” You contend you had a pre-existing and unknown medical condition that has since been proven by your doctors to be the reason behind your inability to physically perform at your full potential. By your statement, your shortness of breath and breathing concerns began around September 2021, became more prominent around January 2022, and have been declining since. You contend you were informed that you “could have had [plastic bronchitis, a rare lung disease], as well as the tumor that initially grew with it, for several years prior to visible symptoms.”

The Board, having reviewed all the facts of record pertaining to your allegations of error and injustice, found as follows:

Before applying to this Board, you exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

On 30 August 2018, approximately two weeks from the date you enlisted in the Navy for participation in the NROTC Program with the ██████████, you were placed on Physical Readiness Warning due to failing to meet physical readiness standards.

On 9 January 2019, you were placed on Academic Probation due to achieving a 2.18 Grade Point Average (GPA) during the fall 2018 term.

On 11 January 2019, you were removed from Physical Readiness Warning.

On 15 January 2019, you were placed on Physical Readiness Warning due to failing to meet physical readiness standards.

On 27 July 2019, you were removed from Physical Readiness Warning.

On 29 August 2019, you were removed from Academic Probation.

On 10 September 2019, you were placed on Physical Readiness Warning due to failing to meet physical readiness standards.

On 23 October 2019, you were placed on Academic Warning due to receiving a 1.88 GPA and an "F" in Calculus II and General Physics.

On 17 December 2019, you were removed from Physical Readiness Warning.

On 24 January 2020, you were placed on Physical Readiness Warning due to failing to meet physical readiness standards.

On 27 January 2020, you were removed from Academic Warning.

On 3 March 2020, you were placed on Aptitude Probation due to underage alcohol consumption.

On 27 April 2020, you were removed from Aptitude Probation.

On 23 June 2020, you were removed from Physical Readiness Warning.

On 24 February 2021, you were placed on Physical Readiness Warning due to failing to meet physical readiness standards.

On 12 May 2021, you were placed on Physical Readiness Probation due to failing the Physical Readiness Test (PRT) during the official PRT on 6 May 2021 and the official “Bad Day” PRT on 11 May 2021.

On 19 August 2021, you were placed on Physical Readiness Probation due to failing the Body Composition Assessment (BCA) on 16 August 2021 and the PRT on 18 August 2021.

On 6 October 2021, Commanding Officer (CO), ██████████, ██████████, notified you he was convening a Performance Review Board (PRB) to investigate and make recommendations on your physical fitness performance during the fall 2021 semester. By your initials and signature, you indicated your intention to appear before the PRB.

On 15 October 2021, you were subject to a PRB resulting in a unanimous decision you be disenrolled with recoupment due to failure to meet physical readiness standards.

On 18 October 2021, the PRB Senior Member submitted the PRB Report to CO, ██████████, ██████████, recommending disenrollment due to failure to meet physical readiness standards. Your summarized testimony before the PRB was included as an enclosure.

On 22 October 2021, you acknowledged receipt of the PRB Report and indicated you would not be submitting a written statement in response to the PRB’s recommendation.

On 25 October 2021, you were notified of the CO’s concurrence with the PRB recommendation of disenrollment with recoupment, and you elected to provide a written statement.

On 27 October 2021, you submitted a written statement requesting reconsideration. Your statement asked the CO to consider the “drive and determination” it took for you to “get here and maintain” and “look past the up and down patterns of [your] PRT results at the beginning of the previous semesters versus the end” and “consider the end results of those semesters, the passes.” Lastly, you noted you had been “trying tremendously hard and the results [were] showing in these run times...just not in the timeframe [you needed] them to.”

On 9 November 2021, CO, ██████████, ██████████, submitted his Disenrollment Recommendation to Director, NROTC Operations, specifically recommending disenrollment, with recoupment of funds, for failing to meet physical readiness standards, having failed two consecutive official PRTs.

On 10 November 2021, CO, ██████████, ██████████ submitted the NROTC Student Disenrollment Report to Commander, NSTC (CNSTC). The Professor of Naval Science (PNS) recommended Attrition Code “97F5 Recoupment – Physical (not meeting physical standards (overweight, failing PRT)).” Although provided an

opportunity to “request waiver of financial reimbursement and/or involuntary active enlisted service [AES],” you wrote “none to be made.” By his signature, the PNS recommended your disenrollment from the program with recoupment of funds which totaled \$62,413.00 in tuition, books, and fees.

On 12 November 2021, you signed a NSTC 1533/120, Naval Reserve Officers Training Corps Disenrollment Acknowledgment, acknowledging you were indebted to the Government in the amount of \$62,413.00. You opted not to request a waiver of financial reimbursement and/or involuntary AES nor did you request a deferment to complete your education if directed onto involuntary AES.

By memorandum of 7 December 2022 to CNSTC, the Director of Officer Development concurred with the PNS’s recommendation for disenrollment and further recommended recoupment of scholarship benefits.

On 22 December 2022, CNSTC recommended your disenrollment from NROTC for physical readiness reasons, termination of your appointment as a Midshipman in the U.S. Navy, and recoupment of \$62,413.00 in scholarship funds.

On 1 February 2023, Deputy Assistant Secretary of the Navy (Military Manpower and Personnel) approved CNSTC’s recommendation on behalf of the Secretary of the Navy.

As a matter of procedure and equity, your petition was submitted to CNSTC to provide an AO. In response, CNSTC opined you were properly disenrolled from the NROTC Program for physical readiness. Further, the AO noted there was no known medical basis for your physical readiness failures. The AO emphasized that the Bureau of Medicine and Surgery determined you met physical qualification requirements and that you did not mention a medical condition when you appealed the PRB on 27 October 2021.

Due to your contention you had a pre-existing and unknown medical condition preventing you from being able to physically perform at your full potential, a qualified medical provider reviewed your petition and provided an AO. After reviewing and meticulously considering all available records, the AO noted in pertinent part:

Though Petitioner has presented evidence of a diagnosis of Plastic Bronchitis, the available clinical records document onset of symptoms beginning in January 2022, whereas her difficulties meeting physical readiness requirements date from August 2018. There is no medical evidence of Petitioner seeking medical attention for signs or symptoms indicative of Plastic Bronchitis during her enrollment in the NROTC Program. During her performance review warnings and appearance before the PRB, Petitioner did not describe her inability to achieve required physical readiness standards on difficulties with breathing or other signs or symptoms indicative of a major illness such as Plastic Bronchitis.

The AO concluded, “the preponderance of objective clinical evidence provides insufficient support for Petitioner’s contention that her inability to meet required physical readiness standards was due to a pre-existing and unknown medical condition.”

After a thorough review of your submission, the Board determined there was insufficient evidence of an error or injustice warranting your requested relief. The Board substantially concurred with the NSTC AO and determined the process followed was in accordance with the NSTC established guidelines provided in NSTC M-1533.2D of 18 December 2019. Further, the Board substantially concurred with the medical AO and determined there was insufficient evidence that your inability to meet required physical readiness standards was due to a pre-existing and unknown medical condition. The Board noted that within weeks of joining the NROTC Program you were issued a Physical Readiness Warning because you failed the curl-ups and run during your 29 August 2018 inventory PRT. However, the Board noted that by your own statement your “shortness of breath and breathing concerns began around September 2021;” three years after your initial PRT deficiencies were documented. Additionally, the Board noted your record does not indicate you ever raised any medical concerns until the PRB when you talked about the impact that COVID had on your ability to train because you “could not workout while sick” and “the unit was operating remotely with no group physical readiness training.” Based on the available evidence and relying on the AOs, the Board concluded there was insufficient evidence demonstrating a material error or injustice warranting amendment of your disenrollment reason from “physical readiness” to “medical disqualification.” 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,

8/20/2024

