



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

█
Docket No. 9408-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
XXX XX █ USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) Official Military Personnel File
(c) DODI 1332.18

Encl: (1) DD Form 149 w/attachments

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 the Board correct his record to reflect that he was placed on the Permanent Disability Retired List (PDRL).

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error and injustice on 12 September 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 Petitioner's application, together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include all references. The Board also considered a review of interval medical records from the U.S. Department of Veterans Affairs (VA).

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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. On 6 August 2002, Petitioner commenced active duty in the Marine Corps. On 15 February 2007, Petitioner underwent a Medical Evaluation Board, which diagnosed him with a disability condition and referred him to the Physical Evaluation Board (PEB). On 12 April 2007, an Informal PEB (IPEB) found Petitioner to be unfit at 100% due to an anterior mediastinal mass secondary to lymphoma. On 15 July 2007, Petitioner was placed on the Temporary Disability Retired List (TDRL). At the time Petitioner was placed on the TDRL, the maximum amount of time a servicemember could remain on the TDRL was five years. At a date that is not set forth in documentation available to this Board, Petitioner was administratively removed from the TDRL.

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c. In his application, Petitioner requested that he be placed on the PDRL. In support of his request, Petitioner contends that he was erroneously removed from the TDRL despite attending every periodic physical exam (PPE) that he was directed to attend.

d. In order to assist it in reviewing Petitioner's request, the Board obtained a review of available treatment documentation pursuant to reference (c), including interval medical records from the VA. The result of the review indicated that Petitioner's condition had not gone into remission since the time that he was placed on the TDRL. The Board thus had sufficient information to reasonably concluded that Petitioner's condition remained the same at the end of the five-year TDRL window and that transfer to the PDRL would have been appropriate.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that there was an error in Petitioner's naval record. Specifically, as a result of the review the Board obtained of Petitioner's available treatment documentation, his condition is considered stable, and would have resulted in his placement on the PDRL as follows:

Unfit for CONTINUED DECREASED INTERVAL SIZE AND ANTERIOR MEDIASTINAL MASS AS DESCRIBED SECONDARY TO LYMPHOMA

(Stable), DC 7715, rated at 100%.

RECOMMENDATION

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

That Petitioner's naval record be corrected by reflecting that he was placed on the PDRL effective the date that he was removed from the TDRL for the following condition:

Unfit for CONTINUED DECREASED INTERVAL SIZE AND ANTERIOR MEDIASTINAL MASS AS DESCRIBED SECONDARY TO LYMPHOMA

(Stable), DC 7715, rated at 100%.

If required, the Defense Finance and Accounting Service will audit the Petitioner's pay account to determine amounts due, if any.

That a copy of this report of proceedings 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.

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.

10/22/2024

