



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

██████████  
Docket No. 2744-24  
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 5 December 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 Service Training Command (NSTC) Advisory Opinion (AO) contained in memorandum 5863/Ser N00/4611 of 31 May 2024, the M.D., Physician Advisor, Board for Corrections of Naval Records, AO contained in memorandum Docket No. 2744-24 of 29 October 2024, and your AO rebuttal response received 29 November 2024.

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 waiver of your scholarship tuition debt. You contend proper consideration was not given to your documented Rhabdomyolysis condition or your Attention-Deficit/Hyperactivity Disorder (ADHD) diagnosis. Specifically, through counsel, you contend the following:

The impetus behind your Drop on Request (DOR) was the military disqualifying condition of recurring Rhabdomyolysis as well as your diagnosis of ADHD. It does not appear that in granting their waiver for disenrollment and recoupment purposes, the Bureau of Medicine and Surgery (BUMED) ruled out genetic or other myopathies as a cause.

It was legal error for the Navy to continue processing your DOR and to seek reimbursement of over \$46,260 in tuition recoupment when you suffered from a known medically disqualifying condition (Rhabdomyolysis) notwithstanding the fact

the Navy provided a questionable waiver of the condition. The waiver was provided without any physical examination and without a referral to a medical specialist.

Since the DOR was pending during the waiver process and the waiver occurred so quickly, it appears to counsel that expediency was the order of the day with disenrollment and recoupment the desired and anticipated outcome.

Your Rhabdomyolysis – likely a condition you will deal with in the near and long term future -- and ADHD are medical conditions beyond your control. They fit squarely within the disqualifying medical conditions for which recoupment is prohibited.

The debt incurred from this program has been crushing for you – living paycheck to paycheck trying to pay back this debt. Being relieved of this debt would enable you to stay in the public sector.

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 10 October 2020, you presented to the ██████████ (██████) medical clinic with bilateral bicep pain/tenderness and dark urine. You were diagnosed with non-traumatic Rhabdomyolysis due to Overuse Injury and noted to be without systemic symptoms of confusion, dizziness, headache, or inability to urinate. The clinic recommended you hydrate and avoid strenuous activities, collected comprehensive metabolic labs, and released you with orders to repeat the lab testing in 24-48 hours. The records indicate that when you repeated the labs, the creatine kinase (CK) levels were more elevated, so you were hospitalized for vigorous IV hydration and released on 12 October after the level decreased.

You were seen in the UW clinic on 19 October 2020 in follow-up for Rhabdomyolysis. Physical exam noted your arms had full range of motion with only mild pain and no ecchymosis or edema and your urinalysis was normal.

On 30 November 2020, a UW clinic office note indicates you were seen after incurring “significant bilateral biceps overuse injury that resulted in Rhabdomyolysis-severe muscle breakdown.” An exact cause was unknown but “likely stemmed from doing vigorous exercise after a brief hiatus...” and other potential factors such as sleep deprivation and nutritional state. You were cleared to return to full activity. Between 4 July 2022 and 21 July 2022, after being deemed medically qualified to begin training at Officer Candidate School (OCS) in ██████████, you battled heat exhaustion due to exposure. Labs were drawn due to your past history of Rhabdomyolysis and returned with elevated CK indicating Rhabdomyolysis. You were treated with IV fluid hydration and when your vital signs stabilized and you returned to your normal core temperature, you were switched to oral hydration. On 21 July 2022, you were deemed fit for full duty and returned to training.

On 25 April 2023, in a short, one-sentence memorandum, you requested to drop from the NROTC Program at the ██████████.

On 3 May 2023, Commanding Officer (CO), ██████████, convened a Performance Review Board (PRB) triggered by your 25 April 2023 DOR. The PRB Report's Summary of Testimony indicates you declined to give an opening or closing statement or submit documents, oral statement or witnesses but submitted a written statement and asked for your student file and health record to be provided to the members although you stated, "there was nothing specific that [you] would like seen." In your statement, which was read aloud to the PRB, you acknowledged several medical issues you had experienced throughout your time in the NROTC program and your struggle to improve your physical fitness. In conclusion, you stated that due to your history of struggling with medical issues, you would be unable to fulfill the requirements of serving as a Marine Corps Officer and requested waiver from recoupment of funds due to financial hardship. The PRB questioned you with regard to your stated medical issues and your plans to serve your country by working in the cyber field. When asked if there was anything specific that brought you to the decision to DOR, you responded that during Pre-OCS Weekend, you realized you were "not on track to becoming a Marine Corps Officer and, after speaking with family and mentors, [you] decided to pursue a civilian career in cyber and still remain involved in [Department of Defense (DoD)] efforts."

The PRB recommended, by a vote of 3 to 0, the following findings of fact: (1) You requested to DOR; (2) Neither your student health record nor provided medical documentation indicated a degradation of iliotibial band syndrome and/or patellofemoral syndrome after April 2020; (3) Your student health record did not indicate a diagnosis of tendonitis, heat stroke, or ruptured biceps; (4) Your student health record indicated you experienced "significant bilateral biceps overuse injury that resulted in Rhabdomyolysis but you were cleared to return to training; and (5) The student health record contained four Annual Certificate of Physical Condition copies covering 2019-2022. The PRB voted 3 to 0 for disenrollment with recoupment of funds.

By memorandum of 5 May 2023, CO, ██████████, held his decision in abeyance and initiated a BUMED review, allowing 30 days for submission of all pertinent medical records. You declined, on 8 May 2023, to submit a written statement in response to the CO's action.

On 15 May 2023, you underwent a clinical evaluation and met criteria for ADHD, Combined Type.

By memorandum of 7 June 2023, Chief, BUMED, provided his recommendation regarding your physical qualification for commissioning to Commanding General (CG), ██████████ (██████████) and Commander, ██████████ (██████████). The Chief stated that, based on his review of the available medical information, you did not meet established physical standards due to history of Rhabdomyolysis, history of patellofemoral pain syndrome, and ADHD. However, the Chief recommended a waiver of the physical standards. The Chief noted your

medical records and demonstrated academic and fitness performance during your four years of NROTC participation indicate you “would have been favorable for a medical waiver to commission in the Navy or Marine Corps, if [you] completed the remaining summer cruise or [OCS] commissioning requirement.” The Director of Officer Development endorsed the waiver on 21 June 2023.

On 27 June 2023, CO, ██████████, resumed the DOR disenrollment process. By memorandum of 29 June 2023, the CO notified Director, ██████████ Operations, of your disenrollment following a DOR notification and recommended full recoupment of tuition.

On 29 June 2023, you signed a NSTC 1533/120, NROTC Disenrollment Acknowledgment, acknowledging you were indebted to the Government in the amount of \$46,268.00. You requested a waiver of financial reimbursement and/or involuntary Active Enlisted Service (AES).

By memorandum of 14 August 2023 to CNSTC, the Director of Officer Development concurred with the Professor of Naval Science’s recommendation for disenrollment with recoupment.

On 19 September 2023, CNSTC recommended your disenrollment from ██████████ ██████████ at your request, termination of your appointment as a Midshipman in the U.S. Marine Corps Reserve, and recoupment of \$46,268.00 in scholarship funds in lieu of AES. CG, ██████████, recommended approval on 22 September 2023.

On 4 October 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 recommended denial of your request because BUMED recommended a waiver of physical standards, and the waiver was positively endorsed so it is not error for the reason for your disenrollment to be “DOR” vice “medical.” CNSTC noted the medical documentation indicated the instances of Rhabdomyolysis which occurred in October and November of 2020 were due to aggressive exercise regimens and poor diet. Further, CNSTC stated your case was thoroughly considered by the PRB where you confirmed that you did not bring up your medical issues previously because you were fully able to participate in training. Additionally, CNSTC noted you sought to DOR only after receiving employment elsewhere in the DoD.

Additionally, due to the medical aspect of your request, your petition was submitted to the Board’s Physician Advisor to provide an AO. After reviewing your petition and all available personnel and medical records, to include those submitted by you and those available through the Joint Longitudinal Viewer Electronic Medical Records Archive, the Physician Advisor determined the preponderance of objective clinical evidence provides insufficient support for your contention that proper consideration was not given to your Rhabdomyolysis condition and/or ADHD diagnosis. Specifically, the Physician Advisor noted that, outside the October 2020 and July 2022 occasions where you received appropriate medical care and were returned to training, there were no additional clinical indicators in the record that would have led your treatment providers to consider additional

contributing factors to these episodes or to indicate the need for further clinical investigations. Further, the Physician Advisor highlighted that although your counsel presented articles suggesting a need to consider genetic or other myopathies as a cause of the exertional Rhabdomyolysis, there was no additional clinical evidence presented to support this issue specific to your medical status. With regards to your ADHD diagnosis, the AO noted there was no evidence available in your personnel, academic, or health records indicating an active issue prior to the May 2023 diagnosis or that your ADHD was debilitating. Lastly, the Physician Advisor noted you did not provide new or material clinical evidence indicating BUMED had erred in its determination or recommendation for waiver of the physical standards.

In response to the CNSTC and Medical AOs submitted to you on 30 October 2024, through counsel you noted the following errors and requested the Board disregard the AOs and base its decision on the clear and uncontroverted evidence.

The unnamed Physician Advisor made several erroneous factual statements and then compounded the error by using the incorrect evidence to support negative inferences in an attempt to justify his conclusion you should not be granted a medical disqualification.

CNSTC likewise made an erroneous conclusion by stating you “sought to drop on request only after receiving employment elsewhere in the [DoD].” This statement implies you sought to DOR because you had a better job offer lined up and “[n]othing could be further from the truth.”

The Physician Advisor quoted BUMED but BUMED initially concluded you did not meet established physical standards and then went on to recommend a physical disqualification waiver. Since you were physically unable to complete OCS because of another bout of Rhabdomyolysis, the initial physical disqualification conclusion is correct.

It is crystal clear the “objective clinical evidence” relied so heavily on conclusively proved the recurrence of a severe case of Rhabdomyolysis at OCS prevented you from successfully completing the program. From the records summarized in the Medical AO, you suffered from three episodes in October 2020, November 2020, and July 2022. The Physician Advisor is able to discount a genetic component of the condition simply because the Navy never tested you for such a cause. It cannot be stated with any certainty whatsoever that you were not genetically predisposed to suffer from Rhabdomyolysis.

You strenuously dispute the assertion your injuries were not severe enough to impact your physical performance or that you had outstanding physical performance while in NROTC.

In conclusion, you contend the best clinical evidence of your physical limitations occurred at OCS when the same recurring Rhabdomyolysis condition caused your failure in the program. Further, you stated you are “not sure what type of objective clinical evidence the Navy needs to conclude [you were] physically disqualified from military service, kidney failure or perhaps heart failure?”

After careful review of the evidence, the Board substantially concurred with the NSTC AO and determined the PRB, and disenrollment processes followed the NSTC established guidelines following your DOR. The Board further noted you chose to continue with your DOR after a waiver of physical standards was granted which reflected the Navy's confidence you could physically meet the requirements. Additionally, the Board, relying on the Medical AO, determined you did not provide new or material evidence indicating BUMED had erred in its determination / recommendation. The Board concluded it did not, as you quipped in your rebuttal, need evidence of kidney or heart failure, but objective clinical evidence of further instances of Rhabdomyolysis since its review of the articles you submitted suggest a "genetic component" to your condition or that you are "genetically predisposed to suffer from Rhabdomyolysis." Notably, although you contend Rhabdomyolysis is "likely a condition [you] will have to deal with in the near and long term future," the current submission provides insufficient evidence to overcome BUMED's recommendation to grant a medical waiver. The Board further determined you provided no evidence to support your contention "that expediency was the order of the day with disenrollment and recoupment the desired and anticipated outcome." The Board determined there was insufficient evidence of error or injustice in the disenrollment process -- especially noting the "pause" taken prior to completing your DOR after you raised medical concerns at the PRB -- the BUMED medical review, and/or the approval of the medical waiver. Lastly, the Board considered your contention the "debt incurred from this program has been crushing" and "being relieved of this debt would enable [you] to stay in the public sector" but concluded there is insufficient evidence of an error or injustice in the decision to recoup the funds paid toward your education. Based on the available evidence and relying on the AOs, the Board concluded there was insufficient evidence demonstrating a material error or injustice warranting your requested 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,

1/17/2025

