



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. 3143-24
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.

Although your 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 your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 10 October 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 Staff Judge Advocate (SJA), United States Naval Academy (USNA) Advisory Opinion (AO) of █ and the AO provided by a qualified Licensed Clinical Psychologist on 27 August 2024, both of which were provided to you via e-mail on 30 August 2024. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

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

You requested waiver of your \$63,110.00 education debt because you believe it to be in error since you were “accepted” by the Navy as a conscientious objector “so [you] should not owe money back to the Navy.” Further, you contend the Department of Veterans Administration (VA) determined you were unemployable due to service-connected disabilities. Lastly, in your e-mail of 14 June 2024, which also provided your medical record, you noted you did not seek help while in the Navy due to a “fear of being negatively discriminated against for having mental

health issues” and it was not until you were separated that you “realized the extent of the issues [you had] been struggling with.”

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 25 May 2018, you graduated from the USNA and were appointed as an Ensign in the U.S. Navy.

On 25 May 2018, you signed an Administrative Remarks (Page 13) entry acknowledging you understood that if you “voluntarily or because of misconduct, do not complete the required period of active duty service incurred because advanced education assistance received at the Naval Academy, [you] may be required to reimburse the United States on a pro-rata basis for the value of the advanced education assistance provided to [you].”

You reported to the [REDACTED] on 31 March 2019.

On 14 August 2020, you submitted a request – via your Commanding Officer (CO) to Navy Personnel Command (PERS 834) for designation as a conscientious objector. As required by MILPERSMAN 1910-020, a mental health evaluation was conducted. In his report, the Medical/Clinical Psychologist stated you did not appear to suffer from a “major psychiatric condition affecting your judgment, perception, or thought process.” He recommended that you be considered “fit and suitable for full duty” and capable of undergoing further evaluation regarding your status as a conscientious objector.

As directed by your CO and per MILPERSMAN 1910-020, an Investigating Officer (IO) conducted a hearing on 25 August 2020 to consider the facts related to your request. In his Record of Proceeding, he noted that you were asked “[i]f separated from the Navy, are you aware of any service obligation, unearned bonus paid, or indebtedness to the Navy?” The IO noted your answer: “[y]es, I understand I may be required to reimburse the Navy for my education at the U.S. Naval Academy.” The IO determined you had “firm, fixed, and sincere objections to participation in war in any form” and that you were “fully aware of the implications that [your] decision to become a conscientious objector holds in regard to [your] naval career.”

By memorandum of 31 October 2020, CO, [REDACTED], recommended approval of your request to be designated as a conscientious objector. He further concurred with the IO’s findings and recommendations and recommended processing for administrative separation with an honorable characterization of service.

In an undated memorandum, Chief of Naval Personnel (CNP) designated you as a conscientious objector, per your request, and directed your separation from the naval service with an honorable characterization of service by reason of Convenience of the Government. Additionally, CNP directed recoupment of “community managed bonuses and educational costs.”

As a matter of procedure and equity, your petition was submitted to USNA to provide an AO. The SJA noted your separation as a conscientious objector does not negate your responsibility to repay the education costs. Further, the AO noted that, as a second class midshipman, you knowingly incurred a seven-year service obligation, two of which encompassed your last two years of study at USNA with a remaining five years to be served on active duty following graduation. As part of this commitment to serve, you acknowledged that, should you fail to complete the requirements, including the completion of five years of active duty service, you could be directed to reimburse the Government for the educational benefits received. Based on your discharge date of 31 October 2021, the AO stated you completed 41 months of your 60-month obligation. Finding no legal error or injustice, the AO recommended the monetary recoupment not be set aside.

Additionally, due to your contentions regarding your mental health, your petition was reviewed by a Licensed Clinical Psychologist. The AO reviewed the medical records and VA documentation provided with your request for relief and, noting, you were diagnosed with Unspecified Mood Disorder following threats of suicidal ideation, determined your statement was not sufficiently detailed to provide a nexus with your complaint. Based on the available evidence, the AO stated there was sufficient evidence of a transient adjustment mood problem related to your dissatisfaction with your job and the Navy but insufficient evidence you met the criteria for a more serious and pervasive mental health condition.

The USNA and Mental Health AOs were provided to you on 30 August 2024 and, although you were afforded an opportunity to submit a rebuttal or additional evidence, you declined to do so.

After careful review of the evidence, the Board determined there was insufficient evidence of an error or injustice warranting your requested relief. The Board substantially concurred with the USNA AO and determined your separation as a conscientious objector does not negate your responsibility to repay the debt. Further, the Board noted the Page 13 of 25 May 2018 wherein you acknowledged you may be required to reimburse the Government if you did not complete the required period of active duty service. Additionally, the Board noted that when asked by the IO whether you were aware of any indebtedness to the Navy, you stated you understood “[you] may be required to reimburse the Navy for [your] education at the U.S. Naval Academy.”

Further, the Board substantially concurred with the Mental Health AO and determined there was insufficient evidence that you met the criteria for a more serious and pervasive mental health condition. The Board also noted the Medical/Clinical Psychologist that interviewed you as part of your request for conscientious objector designation found you “fit and suitable for full duty” with no appearance of suffering from a “major psychiatric condition affecting [your] judgment, perception, or thought process.” Lastly, the Board noted you provided a VA summary of benefits that stated you were “considered to be totally and permanently disabled due solely to

your service-connected disabilities” but substantially concurred with the Mental Health AO’s determination you provided insufficient evidence to provide a nexus.

Based on the available evidence and relying on the AOs, the Board concluded there was insufficient evidence demonstrating a material error or injustice warranting cancellation or waiver of the recoupment of your indebtedness.

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,

11/7/2024

