



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

██████████
Docket No. 9258-24
Ref: Signature Date

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

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

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

Encl: (1) DD Form 149 w/attachments
(2) Physician Advisor, Board for Correction of Naval Records, ltr Docket No. 9258-24 of 14 April 2025

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 his naval records be corrected to show that, at the time of his discharge, he qualified for medical retirement reflecting that: (1) his knee disability was an unfitting condition with at least a 10% rating, (2) his cognitive disability was an unfitting condition with at least a 40% rating, (3) his PTSD disability was an unfitting condition with at least 30% rating, and (4) his bilateral shoulder disability was an unfitting condition with at least a 20% rating.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 15 May 2025 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 enclosures.

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 his application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitation and consider his case on its merits.

b. A review of reference (b) revealed that Petitioner enlisted in the Marine Corps and Petitioner served an honorable period of active duty from 7 January 1997 to 6 January 2001. Thereafter, Petitioner affiliated with the Marine Corps Reserve and from time to time served periods of active duty. Petitioner was recalled to active duty in support of Operation Enduring Freedom/Iraqi Freedom and served from 1 February 2003 to 13 February 2004 and was released from active duty with an Honorable characterization of discharge. Next, Petitioner was again recalled to active duty in support of Operation Enduring Freedom/Iraqi Freedom and served from

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9 January 2005 to 26 September 2005. He was again released from active duty with an Honorable characterization of service. Petitioner commenced another period of active duty on 2 October 2005. This was his final period of active duty service during which he deployed to [REDACTED] from 27 August 2006 to 22 March 2007 and from 15 August 2008 to 4 March 2009. During this final period of active duty, Petitioner was referred by a Medical Evaluation Board (MEB) into the Integrated Disability Evaluation System (IDES) for review of potentially unfitting medical conditions. A discussion of Petitioner's medical treatments and conditions is set forth fulsomely in the enclosure (2) advisory opinion (AO).

c. Despite being in the IDES process, Petitioner's command discharged him from service at the end of his active service obligation, on 22 April 2011, due to "non-retention on active duty" and assigned him an RE-4 reentry code.

d. In his application, Petitioner requests that his naval records be corrected to show that, at the time of his discharge, he qualified for medical retirement reflecting that: (1) his knee disability was an unfitting condition with at least a 10% rating, (2) his cognitive disability was an unfitting condition with at least a 40% rating, (3) his PTSD disability was an unfitting condition with at least 30% rating, and (4) his bilateral shoulder disability was an unfitting condition with at least a 20% rating. In support of his request, he asserted that after three tours in [REDACTED], he began the disability evaluation process but was discharged before the assessment could be completed. He further argued that, despite being on notice of his ongoing medical evaluation, his command discharged him due to completion of his required service; which prevented him from completing the IDES process. In further support of his application, Petitioner provided a written argument, with attachments, as well as a supplemental addendum, which addressed his claims relating to his shoulder condition.

e. In order to assist it in reviewing Petitioner's application, it obtained the enclosure (2) AO, which was considered favorable to Petitioner's request. According to the AO:

After considered review of the available objective clinical and non-clinical evidence, in my medical opinion, there exists sufficient evidence that at the time of his discharge from service, Petitioner suffered from medical and mental health conditions, specifically Left Knee Patellofemoral Pain Syndrome, PTSD, and TBI, and Alcohol Use Disorder that interfered with his ability to carry out the responsibilities of his rank, rate, and assigned duties and mitigated his in-service misconduct behaviors.

Had his IDES process been allowed to proceed to completion it is very likely the PEB would have found him unfit for these conditions. It is less likely his VA rated condition of Bilateral Shoulder Sprain would have been found unfitting had it been reviewed by the PEB.

Should consideration of Petitioner's request for relief be granted, it is recommended Petitioner be referred to the Physical Evaluation Board for evaluation for unfitness for the following conditions with consideration for placement on the Permanent Disability Retired List (PDRL):

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1. Left Knee Patellofemoral Pain Syndrome, status-post arthroscopy with scars, VA Code 5260, permanent and stable, not combat related (NCR), not combat zone (NCZ) at a disability evaluation of 10%;
2. Post Traumatic Stress Disorder (with Alcohol Use Disorder), VA Code 9411, permanent and stable, combat related (CR), combat zone (CZ) at a disability evaluation to be determined.
3. Residuals of Traumatic Brain Injury (Including Cognitive Impairment, Not Otherwise Specified), VA Code 8045, permanent and stable, not combat related (NCR), not combat zone (NCZ), at a disability rating to be determined.

f. The AO concluded, “in my medical opinion, the preponderance of objective clinical evidence provides sufficient support for Petitioner’s contention that at the time of his discharge he was unfit for continued military service and should have been permitted to continue in the DES for adjudication of fitness for continued service and consideration for possible medical retirement.”

CONCLUSION

In its review of the entirety of the available documentation, the Board determined that there was an error in Petitioner’s naval records that warrants partial relief. In reaching its decision, the Board observed that it applies a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. In this petition, the Board was unable to find sufficient evidence to explain the basis underlying why Petitioner, who, according to the AO, was in the midst of processing within the IDCS, was discharged due to non-retention on active duty. Thus, without sufficient explanation of the rationale for his discharge, the Board concluded that Petitioner’s non-retention on active duty was in error. In its review of the relief to be afforded Petitioner, the Board concurred substantially with the AO; which the Board found to be reasonable and based on substantial evidence, and which concluded that the “the preponderance of objective clinical evidence provides sufficient support for Petitioner’s contention that at the time of his discharge he was unfit for continued military service and should have been permitted to continue in the DES for adjudication of fitness for continued service and consideration for possible medical retirement.” To further clarify, the AO opined that the facts demonstrate Petitioner would have likely been found unfit by the Physical Evaluation Board (PEB) due to his Left Knee Patellofemoral Pain Syndrome, Post Traumatic Stress Disorder (with Alcohol Use Disorder), and Residuals of Traumatic Brain Injury. The AO also opined that the PEB would likely have not found Petitioner’s Bilateral Shoulder Strain to be unfitting. In its review of Petitioner’s supplemental memorandum relating to this condition, the Board determined that it concurred with the AO in recommending that Petitioner’s Bilateral Shoulder Strain would not have been found unfitting. Thus, the Board recommended Petitioner be placed on the PDRL for the conditions, and disability ratings, set forth below. The Board assigned disability ratings based on the entirety of the available documentation.

Finally, in its review of Petitioner’s reference (b) Official Military Personnel Folder, it reviewed his Certificates of Release or Discharge from Active Duty (DD Forms 214). In its review, the

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Board observed that Block 13 of his DD Forms 214 did not appear to contain a complete recitation of his awards garnered during all periods of his service. Thus, the Board recommended that, in issuing to him a new DD Form 214, the issuing authority should review and ensure that Block 13 of his new DD Form 214 contains all awards and medals that he earned during all periods of service.

RECOMMENDATION

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

That Petitioner be placed on the PDRL, effective 23 April 2011, for the following conditions:

- (1) Left Knee Patellofemoral Pain Syndrome, NCR, NCZ at 10%;
- (2) Post-Traumatic Stress Disorder (PTSD), CR, CZ at 70%
- (3) Residuals of Traumatic Brain Injury, NCR, NCZ at 40%

This results in a combined service disability retirement disability rating of 80%.

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that at the time he was discharged, he was placed on the PDRL as follows:
Narrative Reason for Separation: Disability, Permanent; Separation Program Designator: as appropriate; Reentry Code: RE-3P; and conform any other blocks to appropriately reflect placement on the PDRL.

That Block 13 of Petitioner's DD Form 214 be reviewed and corrected to reflect awards earned during all periods of service.

Note: The Defense Finance and Accounting Service 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 corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

5/29/2025

[REDACTED]