



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

[REDACTED]
Docket No. 11413-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
USN, XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) Official Military Personnel File (OMPF)
(c) Department of Veterans Affairs (VA) Medical Records
(d) 38 C.F.R. § 4.59
(e) 10. U.S.C Chapter 61

Encl: (1) DD Form 149 w/enclosures

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 reversal of his removal from the Temporary Disability Retired List (TDRL), transfer to the Permanent Disability Retired List (PDRL) and retroactive to the date of his removal from the TDRL, and full reinstatement of benefits and reissuance of his retired military identification card. If transfer to the PDRL was denied, Petitioner requested reevaluation to determine eligibility for placement on the PDRL.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 6 February 2025 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all of the evidence of record pertaining to Petitioner's allegations of error or injustice, finds as follows:

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

b. A review of reference (b), reveals the Physical Evaluation Board (PEB) convened 10 September 2015 and found Petitioner to be unfit due to Post-Traumatic Stress Disorder (PTSD) with Stress Response (Unstable), Diagnostic Code (DC) 9411, with a 50% rating and Osteoarthritis, Right Knee (Unstable) DC 5003-5260, with a 10% rating. On 29 October 2015, Petitioner was transferred to the TDRL.

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c. According to Petitioner's PEB record, he was administratively removed from the TDRL on 12 August 2021.

d. Petitioner contends he was not properly notified of, nor scheduled for, any required medical evaluations; which represents a "clear breach of procedural compliance." He further contends his VA rating, which acknowledges the severity and enduring nature of his disabilities, was not adequately considered in the Navy's decision to administratively remove him from the TDRL. Lastly, Petitioner contends he was removed from the TDRL without proper notification and the lack of due process resulted in unjust termination of his benefits. See enclosure (1).

e. In connection with reviewing Petitioner's request, the Board facilitated a review of reference (c) in order to discern the status of the condition for which Petitioner was placed on the TDRL. A review of applicable VA medical records shows the severity of the unfitting PTSD disability most closely approximates the criteria for a continued rating of a 50% disability evaluation¹. Regarding Petitioner's knee condition, reference (d) allows consideration of functional loss due to painful motion to be rated to at least the minimum compensable rating for a particular joint. Therefore, Petitioner's Osteoarthritis in his right knee, which is materially unchanged, is of a permanent nature and stable for ratings purposes.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board concluded Petitioner is entitled to relief.

Based on the review of Petitioner's reference (c) documents, the Board determined Petitioner's unfitting conditions are of a permanent nature and stable, for ratings purposes, at 50% and 10%. Accordingly, the Board determined Petitioner's reference (c) medical documents are deemed sufficient and, consistent with the requirements of reference (e), should result in placement on the PDRL as follows:

- 1) PTSD WITH STRESS RESPONSE (Stable) Diagnostic Code (DC) 9411 rated at 50%. Not combat related (NCR), not incurred in a combat zone (NCZ)
- 2) OSTEOARTHRITIS, RIGHT KNEE (Stable) DC 5003-5260 rated at 10%. NCR, NCZ.

Having determined, based on the review of medical records, Petitioner's relief should be granted, the Board declined to specifically address the due process and breach of procedural compliance contentions.

RECOMMENDATION

In view of the above, the Board recommends the following corrective action be taken on Petitioner's naval record.

¹ This determination is based on the following findings: Occupational and social impairment with reduced reliability and productivity; disturbances of motivation and mood; difficulty in establishing and maintaining effective work and social relationships; anxiety; suspiciousness; chronic sleep impairment.

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That Petitioner be placed on the PDRL, effective 12 August 2021, for the following conditions:

1) PTSD WITH STRESS RESPONSE (Stable) Diagnostic Code (DC) 9411 rated at 50%. Not combat related (NCR), not incurred in a combat zone (NCZ)

2) OSTEOARTHRITIS, RIGHT KNEE (Stable) DC 5003-5260 rated at 10%. NCR, NCZ.

The Defense Finance and Accounting Service (DFAS) shall audit Petitioner's pay account for payment of back pay to the date of Petitioner's removal from the TDRL and any lawful monies owed.

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.

