



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

[REDACTED]
Docket No. 12015-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

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

Encl: (1) DD Form 149 w/enclosures
(2) Advisory Opinion by BCNR, M.D., Physician Advisor, 23 July 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 he be placed on the Permanent Disability Retired List (PDRL).
2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 30 July 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, enclosure (1), together with all material submitted in support thereof and all of the enclosures hereto, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies. The Board also considered enclosure (2), the 23 July 2025 advisory opinion (AO) from a medical professional, which was considered favorable to Petitioner.
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 regulation 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. A review of reference (b) reveals that Petitioner enlisted in the Marine Corps and commenced active duty on 9 January 2017. While Petitioner was on active duty, he was placed into the Disability Evaluation System (DES) and reviewed for fitness by an Informal Physical Evaluation Board (IPEB). On 2 April 2020, the IPEB found Petitioner to be unfit due to Right Foot Injury (Stable) at 20%¹. He was also diagnosed with Secondary Osteoarthritis, Right Ankle

¹ This rating was consistent with the Department of Veterans Affairs proposed rating of 20% for Petitioner's unfitting condition.

and Foot; which was determined not to be contributing to his unfitting condition or separately unfitting. Pursuant to his IPEB findings, Petitioner was discharged with severance pay on 15 June 2020.

c. Petitioner provided a rating decision from the Department of Veterans Affairs (VA), dated 20 August 2020, issuing to him a new rating for his unfitting condition and explaining that this “decision represents a change to a rating originally assigned as part of the Integrated Disability Evaluation System. This decision could potentially warrant a change to your military record and/or an adjustment to the disability separation benefits you received from your service department.” The rating decision further explained that “[i]n light of the change in your VA disability rating, it may be to your benefit to request a review of your discharge to the appropriate board.” The VA included a DD Form 149, Application for Correction of Military Record.

d. In his application, Petitioner requested to have his unfitting condition, which was determined by the IPEB while he was in-service to be 20% with severance, to be changed to allow for his placement on the PDRL. In support of his request, Petitioner states, shortly after he was discharged, he received the revised rating decision from the VA that increased the rating of his unfitting condition to 50%. Petitioner further asserts that he appreciates the benefits of a military disability retirement since he has married and has a family.

e. In order to assist it in reaching a decision, the Board obtained the AO. According to the AO, which was considered favorable to Petitioner, under VA Diagnostic Code 5276 where the foot condition is rated as “Pronounced,” the highest rating that can be applied for a unilateral condition is 30%. Therefore, the AO concluded Petitioner’s level of severity qualifies for the 30%. According to the AO, should consideration of Petitioner’s request for relief be granted, the recommended correction of the record would result in the following, applied to the time of discharge (15 June 2020):

Unfit for the following conditions with placement on the Permanent Disability Retired List (PDRL):

1. Right Foot Injury (Stable), VA Code 5276, rated at 30%, permanent and stable, not combat related (NCR), non-combat zone (NCZ)

f. The AO concluded, “in my medical opinion, the preponderance of objective clinical evidence provides sufficient support for Petitioner’s request for reconsideration of his service disability rating due to the VA finding of error in the initial DES Proposed Rating and subsequent increase in the final VA Rating Decision disability evaluation of his referred unfitting condition.”

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner’s request warrants relief. Specifically, the Board determined an error exists in Petitioner’s naval record based on the finding and recommendation by the AO; which explained

that Petitioner's foot condition should have been rated at 30% at the time of his discharge. While the Board noted the VA rated Petitioner's unfitting condition at 50%, the Board concurred with the AO that the Veterans Administration Schedule for Rating Disabilities (VASRD) limits Petitioner's rating to 30%. As set forth in detail in the AO, the proper adjudication based on the updated VA rating decision should have been 30%; the highest rating that can be applied for Petitioner's unfitting condition based on a medical finding that his unilateral condition was considered "Pronounced."

Thus, the Board recommended that Petitioner be granted relief, as described in the AO, effective the day after he was discharged.

RECOMMENDATION

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

Petitioner be placed on the PDRL effective the day after he was discharged from service as Unfit for the following condition:

1. Right Foot Injury (Stable), VA Code 5276, rated at 30%, permanent and stable, not combat related (NCR), non-combat zone (NCZ)

Petitioner's narrative reason for separation shall be changed to: Disability, Permanent; separation program designator: as appropriate; reentry code: RE-3P.

Headquarters Marine Corps (MMPB-21D) will issue a new DD Form 214 consistent with the recommended changes.

The Defense Finance and Accounting Service will complete an audit of Petitioner's pay records 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.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

8/14/2025

