



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

██████████
Docket No. 12335-24
Ref: Signature Date

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Dear ██████████

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 was 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 request on 3 April 2025. 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.

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

A review of your record revealed that you were commissioned in the Navy and commenced medical school, on 10 July 2019, at Uniformed Services ██████████ (██████████). While you were a student, on 1 November 2023, you were referred to a Medical Evaluation Board (MEB). On 16 February 2024, the MEB issued a narrative summary (NARSUM), which set forth its diagnosis that you had Recurrent Rhabdomyolysis and Post COVID 19 Residuals. According to the MEB, your condition was not likely to improve to allow you to return to full duty within 12 months. The MEB recommended that you be referred to the Physical Evaluation Board (PEB) within the Disability Evaluation System (DES). While you were in the DES, you were assigned a legal counsel. On 5 March 2024, your counsel submitted a rebuttal to the recommendation of the MEB, through which you requested the MEB to separately refer your “diagnosed mixed central and obstructive sleep apnea” to the PEB “because the condition -- singularly, collectively, or through combined effect -- also prevents him from

reasonably performing his duties as medical student/1970 at the ██████████, and thus warrants referral to the Physical Evaluation Board.” Your legal counsel attached to your rebuttal a statement from you dated 26 February 2024 in which you stated:

“2. I believe that my diagnosis of severe OSA [Obstructive Sleep Apnea] with an AHI of 40.7 significantly impacts my ability to perform my duties within the military. As a medical student, I first noticed my OSA symptoms impeding my ability to study as efficiently as my classmates, which severely affected my ability to succeed. Indeed, I had difficulty focusing, concentrating, and learning, and it was my psychiatry rotation that convinced me to undergo a sleep study where it was discovered that I had severe OSA.

3. Since my diagnosis, I have continued to have difficulties which were most prominent on my medicine, surgery, and ICU rotations. It was a challenge being able to adjust to the sleep machine and fall asleep at an appropriate time so that I could be up by 0400 or 0500 to get ready prior to prerounding on my patients. Most days I had five or less hours of sleep, and most of the time it is inefficient sleep.”

On 7 March 2024, the MEB granted you the relief you requested in your rebuttal, explaining that it found sufficient cause to modify its findings and recommendations to add to the PEB as a duty limiting condition, your Severe Obstructive Sleep Apnea with CPAP diagnosis.

Thereafter, you were reviewed by an Informal PEB (IPEB) which, on 17 April 2024, found you to be unfit due to Recurrent Rhabdomyolysis Unspecified at a 0% rating with Post-Covid Condition as a related condition. The IPEB found your Mixed Central and Obstructive Sleep Apnea to be a condition that was not separately unfitting, and which did not contribute to your unfitting condition.

According to your Fitness Report ending 31 May 2024, you were disenrolled from medical school due to substandard performance. On 4 November 2024, you executed an election of options form (EOO) with respect to the findings of the PEB and, in that document, you acknowledged that you accepted the findings of the PEB. Your EOO was witnessed and certified by your legal counsel. On 13 November 2024, President, PEB, wrote to the Chief of Naval Personnel (CNP), informed him that you were found unfit with a 0% rating, and requested that CNP separate you from service. On 20 December 2024, you were discharged due to disability, severance, non-combat related IDES.

In your petition, you request to have your EOO changed to reflect that you did not accept the findings of the IPEB. In support of your request, you state that you seek this relief so that you can appear before a Formal PEB to make the case why you should be allowed to serve with your medical condition. You explain that many service members have had histories of Rhabdomyolysis and they continue to serve, that you previously provided a waiver for this condition, and that the Navy would benefit from this because it continues to struggle with retention issues.

The Board carefully reviewed your contentions and the material that you submitted in support of your request, and determined that it found no error or injustice in your naval records. 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 your case, the available documentation reveals that there were no apparent defects in your processing within the DES. The documentation demonstrated that you were reviewed by a MEB and through an IPEB. It also demonstrated that, at appropriate decision points within your processing, you were represented by legal counsel. The Board observed that your legal counsel successfully advocated on your behalf by seeking to include an additional condition to your conditions to be reviewed by the PEB. The Board also observed that your legal counsel witnessed and certified your execution of your EOO. In sum, the Board was unable to find sufficient evidence that your processing through the DES was subject to error, nor was it able to find sufficient evidence of an injustice in your DES processing. Similarly, the Board did not find your rationale for relief, that other service members serve with your condition and that the Navy would be benefit from granting this relief, to be persuasive. On these points, the Board found that determinations of fitness are an individualized decision and, in your case, an IPEB found you to be unfit based on your condition. The Board did not find retention issues to be a material factor in its decision-making process. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit 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,

4/16/2025

