



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

[REDACTED]
Docket No. 544-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED],
USNR, XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) Official Military Personnel File (OMPF)
(c) Interval Department of Veterans Affairs Medical Records
(d) Title 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 reinstatement on the Temporary Disability Retired List (TDRL).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 6 March 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 Petitioner was found unfit by a Physical Evaluation Board (PEB), convened 28 March 2019, due to LUMBAR DEGENERATIVE DISC DISEASE (Unstable), Diagnostic Code (DC) 5010-5243, with a 20% rating and LEFT LOWER RADICULOPATHY (Unstable), DC 8520, with a 20% rating. The PEB recommended placement on the TDRL with a combined disability rating of 40%. On 24 May 2019, Petitioner was placed on the TDRL.

c. According to his PEB record, Petitioner was administratively removed from the TDRL on 7 December 2022.

d. Petitioner contends he did not receive notification or justification for his removal from the TDRL. Further, he contends he "diligently followed up with [his] medical provider, as required" and was informed by his provider that his disability was permanent. Lastly, Petitioner expressed concerns about "administrative oversights" in light of the situation and having not received "any pay associated with the program." Enclosure (1)

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e. In connection with reviewing Petitioner's request, the Board facilitated a review of reference (c) in order to discern the status of the conditions for which Petitioner was placed on the TDRL. A review of the medical records indicates Petitioner's clinical care during the applicable TDRL period shows continued back pain with a herniated disc at L5-S1 producing mass effect upon the S1 nerve root, resulting in a continued rating of 20% for his LUMBAR DEGENERATIVE DISC DISEASE condition (DC 5010-5243). The condition is considered stable and permanent, and the rating associated with the condition would be unchanged during the course of the TDRL period. The records further indicate Petitioner remains unable to perform the duties of his office, grade, rank, or rating.

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board concluded Petitioner is entitled to partial relief. Based on the review of Petitioner's reference (c) documents, the Board determined Petitioner's interval rating by the Department of Veterans Affairs is considered sufficient, consistent with reference (d) requirements, and should be applied with placement on the Permanent Disability Retired List (PDRL) as follows:

LUMBAR DEGENERATIVE DISC DISEASE (Stable), DC 5010-5243, rated at 20%. Not combat related (NCR), not incurred in a combat zone (NCZ).

LEFT LOWER RADICULOPATHY (Unstable), DC 8520, rated at 20%, NCR, NCZ.

Combined DoD rating of 40%

RECOMMENDATION

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

That Petitioner be placed on the PDRL, effective 7 December 2022, for the following conditions:

LUMBAR DEGENERATIVE DISC DISEASE (Stable), DC 5010-5243, rated at 20%. NCR, NCZ.

LEFT LOWER RADICULOPATHY (Unstable), DC 8520, rated at 20%. NCR, NCZ.

Combined DoD rating of 40%

The Defense Finance and Accounting Service shall audit Petitioner's pay account to determine amounts due, if any.

That no further changes be made to Petitioner's naval record.

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.

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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.

3/18/2025

[REDACTED]