



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

██████████
Docket No. 3654-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your reconsideration request for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. 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 insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 15 May 2025, has carefully examined your current request. 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.

By way of background, in 2023, you previously sought relief from this Board, and your petition was denied on 22 June 2023. In that petition, you requested from the Board approval of a Line of Duty (LOD) determination, enrollment in the integrated disability evaluation system (DES) and placement on the Permanent Disability Retirement List (PDRL). The Board denied your request after determining there was insufficient medical documentation showing that your ACL tear, diagnosed January 2021, and shoulder labral tear, diagnosed in December 2021, were due to the Marine Corps Martial Arts Program (MCMAP) injuries reported in August and November 2019.

You sought reconsideration of the Board's denial, and your petition for reconsideration was denied on 9 November 2023. In that petition, you requested that the Board to take into

consideration the LOD process confusion, lack of medical support, and the special circumstances regarding the COVID lockdown and two hurricanes, and grant approval of Line of Duty Benefits (LOD-B). You contended that the denials from the Reserved Medical Entitlements Division (RMED) and the Office of the Judge Advocate General (OJAG) were for LOD-HC Medical Incapacitation Benefits instead of LOD-B. In denying your request for reconsideration, the Board again noted that, after the MCMAP injuries in August and November 2019, you completed your active service orders and were discharged in March 2020. During the four months you were on active duty, you did not follow up for medical care for your shoulder or knee and you were not placed on limited activities during that period. In addition, the Board explained, you were evaluated for your back pain, foot pain, and knee pain prior to separation in March 2020 and those conditions were specifically deemed as not limiting. Next, the Board observed you completed two Combat Fitness Tests, a Physical Fitness Test, and executed annual training (AT) orders in August 2020, as well as performed drill periods until January 2021, without incident. The Board also explained that it concurred substantially with the decisions and opinions of the RMED and OJAG. In summary, the Board concluded there was insufficient evidence to support your contention that you sustained injuries in an active status that limited your ability to perform your duties and determined there was no error or injustice in your record regarding denial of LOD benefits.

In your current petition, you seek (1) an LOD determination for injuries you assert that you sustained in the line of duty on 10 April 2024; (2) review your eligibility for medical retirement benefits based on the documented severity and service-related nature of your injuries; and (3) correction of your records to reflect an accurate assessment of your medical conditions and entitlement to associated benefits, including access to necessary medical care and financial support. In support of your current request, you assert that the requested correction is legally warranted because the current Line of Duty determination contravenes controlling authorities. You further assert that the Board is required to consider all relevant medical evidence, expert opinions, and regulatory mandates. You believe you were unlawfully denied benefits due to procedural irregularities, administrative oversights, and a failure to properly evaluate the substantiating evidence.

In your current petition, you claim that, during your reserve drill weekend on 10 April 2024, you fell in the shower, struck the toilet and then the floor; which injured your knee and lower back, resulting in numbness in your left shin since the incident. You further claim that the next morning, on 11 April 2024, you informed your unit's operations officer, administrative chief, and your sergeant about the injury and said you were going to sick call. Thereafter, according to your petition, you filed a request for Line of Duty benefits for these injuries on 10 May 2024. You further state that your mandatory retirement date was 1 July 2024 and that you diligently sought a response from the Reserve Medical Entitlements Division (RMED) prior to your retirement; but the disapproval arrived after your retirement day and denied you any option to extend your contract or to qualify for potential military medical benefits. You provided two letters from a medical professional relating to your knee and to your shoulder; in which the medical professional opined that your knee and shoulder injuries were "due to the injury sustained" in April 2024.

On 24 July 2024, RMED denied your request for LOD. In reaching its decision, RMED explained the background of your prior request; describing that you or your unit first submitted an initial LOD benefits request on 17 March 2022 for treatment of a left knee and left shoulder injury and that request was denied on 31 March 2022 due to insufficient medical and administrative documentation. On 22 June 2022, you submitted an appeal to the initial denial. On 22 November 2022, your appeal was denied by OJAG due to the late submission of the initial LOD benefits request and that the record failed to establish, by a preponderance of evidence, that your claimed injuries, a left knee meniscus tear and subsequent meniscectomy and left shoulder labral tear, were incurred or aggravated at that time. Further, according to RMED, your request was missing medical documentation to verify the medical treatment you pursued following the 22 November 2022 OJAG denial of your previous initial LOD benefits request. RMED also explained that your request was missing medical documentation to verify if you were ever returned to full duty for your left knee and left shoulder injuries. In its denial letter, the RMED continued explaining the basis for its denial, setting forth specific deficiencies, as follows:

d. The member's back pain is chronic from years ago and the request is missing evidence that a minor fall like the one claimed has caused any significant injury beyond the normal progression of the member's chronic back pain.

e. Per the Marine Corps Total Force System (MCTFS) personal information screen, the member's duty status reflects full duty, however the MCTFS Physical Fitness Test (PFT) screen reflects the member last completed a PFT on 30 January 2020 and the member's unit reported the member as medically excused on 4 May 2021 and 27 June 2022 for the calendar year 2021 and 2022 PFT scores. The request is missing medical documentation that reflects why the member was medically excused from running the required PFTs for calendar years 2021 and 2022. The request is missing an explanation for why the member has not completed a PFT since 30 January 2020 which per MCO 6100.13A CH-4 is a scored, calendar year annual requirement for all Selected Marine Corps Reserve (SMCR) Marines.

f. The MCTFS Combat Fitness Test (CFT) screen reflects the member last completed a CFT on 17 November 2020 and the member's unit reported the member as medically excused on 29 December 2021 for the calendar year 2021 CFT score. The request is missing medical documentation that reflects why the member was medically excused from running the required CFT for calendar year 2021. The request is missing an explanation for why the member has not completed a CFT since 17 November 2020 which per MCO 6100.13A CH-4 is a scored, calendar year annual requirement for all Selected Marine Corps Reserve (SMCR) Marines.

g. Per the member's signed and endorsed annual training orders for the period of 29 October 2023 to 11 November 2023 (14 days), he circled the medical response that reflects "Do have any medical limitations (physical or mental) which I believe might restrict my performance on active duty or would warrant a light/limited duty status." The request is missing medical documentation that validates the member's claim that he does have medical limitations and the request is missing an

explanation from the member/unit regarding why the member was placed on active duty orders if he had medical limitations.

h. All three of the member's current claimed injuries are chronic and the record is missing evidence of the member being return to full duty for the left knee and left shoulder injuries that were disapproved in the previously submitted LOD benefits request from 17 March 2022. As the record does not include evidence of the member being returned to duty for these chronic injuries, the record does not establish, by preponderance of evidence, that the claimed fall directly caused any of these claimed chronic conditions to worsen beyond their natural progression.

i. The request is missing all Physical Health Assessments (PHAs) since the previous LOD benefits appeal request was denied on 22 November 2022.

j. Per the member's 31 January 2023 letter requesting to be transferred to the retired reserve awaiting pay at age 60, the member acknowledged item "h" which reflects "I can expect to retire on the date approved by CMC unless I am placed on legal or on medical hold, as authorized only by the CMC (MMSR-5), prior to my actual retirement date. I understand that if I am at service limitations or otherwise pending mandatory retirement, a deferment for medical reasons may only be accomplished if I have a complete medical board accepted by the president of the Physical Evaluation Board or I am hospitalized on my actual retirement date as an in-patient." As the member is at service limitations and has a CMC approved mandatory retirement date of 1 July 2024, the only office that can defer this date is CMC (MMSR-5). As the member is retired, he may pursue medical treatment via a Veterans Affairs medical treatment facility

In its review of your petition, the Board considered the entirety of the arguments and documentation that you provided and it disagreed with your rationale for 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 reviewing the findings of the RMED, as set forth in its 24 July 2024 letter to you, the Board observed the findings to be reasonable and based on substantial evidence. In particular, the Board observed that the RMED decision set forth several specific categories of deficiencies in your LOD request and that you did not adequately address those deficiencies in your petition to this Board. The Board carefully considered the two letters from your orthopedist, and the opinions contained therein, and determined that, on balance, these letters did not sufficiently address the specific matters set forth in the RMED decision. Therefore, the Board determined that it concurred substantially with the finding of the RMED. In light of the foregoing, the Board determined that you provided insufficient evidence to overcome the findings of the RMED. 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,

6/2/2025

