



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

Docket No. 9026-25

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF

Ref: (a) Title 10 U.S.C. § 1552

(b) Official Military Personnel File (OMPF)

Encl: (1) DD Form 149 w/attachments

(2) DD Form 214

(3) Report of Medical History, 9 Mar 1964

(4) Standard Form 89, Medical Evaluation Board Report, 7 Jan 1966

(5) NAVMED 6100/3 (3-65), Certificate Relative to a Full and Fair Hearing Before a Physical Evaluation Board, 7 Jan 1966

(6) NAVPERS 601-14, Record of Discharge, Release from Active Duty, or Death, 26 Jan 1966

(7) NPC, Memorandum for Executive Director, BCNR ltr 1070 PERS-312/SA, subj: Request for Advisory Opinion ICO [Petitioner], 29 Sep 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), seeking to have his naval records changed to reflect: (1) disability separation or retirement, made effective as of his date of discharge; and (2) net active duty service of 6 months, 3 days.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error or injustice on 29 April 2026. The Board, pursuant to its regulations and on the basis of the available evidence of record, determined that the corrective action indicated below should be taken with respect to Petitioner's request. Documentary material considered by the Board consisted of Petitioner's application, all materials submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies.

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 law and regulations applicable to the Department of the Navy. Although Petitioner's application was not filed in a timely manner, the Board waived the statute of limitations and considered the case on its merits in the interest of justice.

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

b. A review of reference (b) reveals that on 28 July 1965, Petitioner, a member of the U.S. Navy Reserve (USNR), commenced active-duty service with the U.S. Navy. See enclosure (2).

c. On 9 March 1964, in the context of Petitioner's USNR enlistment medical examination, a Navy medical provider noted that Petitioner had exhibited albuminuria (i.e., the presence of a blood protein in the urine, indicating kidney damage or disease) six months prior. According to Petitioner's civilian clinician, the albuminuria had resolved by the date of Petitioner's enlistment medical examination. See enclosure (3).

d. On 30 November 1965 (i.e., four months after his entry onto active duty), Petitioner was admitted to the sick list with a diagnosis of albuminuria. Medical records from [REDACTED] reflected Petitioner's diagnosis with albuminuria at the age of three, and Petitioner disclosed to his medical provider that he had twice been denied enlistment in the U.S. Navy due to symptomatic albuminuria. See enclosure (4).

e. Following multiple courses of treatment and a renal biopsy, Petitioner was diagnosed with nephropathy with unspecified glomerular abnormalities "which existed prior to enlistment and has not been aggravated by service." On 7 January 1966, a Medical Evaluation Board (MEB) therefore recommended his administrative separation for a disqualifying, but preexisting, medical condition. See enclosure (4).

f. On 7 January 1966, Petitioner waived a hearing before the Physical Evaluation Board (PEB) and requested an expedient administrative separation (ADSEP). In his waiver, Petitioner acknowledged that, absent a hearing before the PEB, he would not receive disability severance pay, retirement pay, or other compensation. See enclosure (5).

g. On 26 January 1966, Petitioner was discharged from active duty in the U.S. Navy due to physical disability. See enclosures (2) and (6).

h. To assist it in evaluating Petitioner's application for correction, the Board sought an Advisory Opinion (AO) from Navy Personnel Command. The AO is partially favorable to Petitioner's request. Specifically, the AO calculates Petitioner's net active-duty service as 5 months, 29 days (as opposed to the 5 months, 28 days currently reflected in Petitioner's DD Form 214) and recommends that his DD Form 214 blocks for "Net Service This Period" and "Total Active Service" be corrected accordingly. See enclosure (7).

i. In his application to the Board, Petitioner avers that his medically disqualifying nephropathy/glomerulonephritis did not pre-exist his service. Thus, he contends he should have received a disability separation or retirement, as opposed to an ADSEP for a pre-existing medical condition. He further contends that his dates of service correspond to 6 months, 3 days of net active-duty service, instead of the 5 months, 28 days that his DD Form 214 currently reflects. See enclosure (1).

CONCLUSION

Upon careful review and consideration of all the evidence of record, the Board found sufficient evidence of an injustice warranting partial relief.

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

In its review of the entirety of Petitioner's application as described above, the Board concluded that Petitioner failed to meet his burden to prove, by a preponderance of the evidence, that the Navy's determination that his kidney condition (nephropathy) pre-existed, and was not aggravated by his service was erroneous (i.e., that the actions materially departed from then-applicable processes or standards, or that judgments made in the course of those actions were irrational) or unjust (i.e., that the actions, though not erroneous, were unjust under the particular circumstances of the case, either at the time or in retrospect). Thus, Petitioner's ADSEP without disability severance or retirement benefits was also not erroneous.

Here, Petitioner's contention that his nephropathy/glomerulonephritis did not pre-exist his military service is squarely contradicted by the record. The medical record reflects that Petitioner exhibited albuminuria—a symptom of nephropathy—as early as the age of two, and the condition recurred into adulthood, resulting in two denials of his enlistment (due to active symptoms) and a note in Petitioner's enlistment medical exam that he had recently suffered an episode of albuminuria. An in-service kidney biopsy confirmed the presence of glomerular abnormalities, and an MEB, on the basis of the available medical evidence, determined that the condition pre-existed Petitioner's military service and was not aggravated by service. Petitioner was offered the opportunity to contest that determination by demanding a hearing before the PEB, but he declined to do so. Instead, he requested an expedient ADSEP and acknowledged his understanding that his discharge by ADSEP would not entitle him to disability severance pay, retirement benefits, or other compensation. Petitioner presented no additional medical documentation to this Board in support of his contention that his disqualifying condition did not pre-exist his enlistment, and he does not contend that the in-service medical records in his case file: (1) were unavailable to the MEB during his service; or (2) otherwise undermine the MEB's assessment that his nephropathy pre-existed his enlistment.

In reaching its decision, the Board observed that disability separation or retirement is only warranted when a disqualifying condition is either incurred or aggravated during active-duty service. Pre-existing medical conditions, unless aggravated by service, therefore do not provide a basis for disability benefits. Following its deliberations, the Board found that Petitioner failed to show, by a preponderance of the evidence, that the unique circumstances of his case were such that a formally correct action nevertheless resulted in injustice.

The Board then turned to Petitioner's contention that his current DD Form 214 inaccurately reports his net active-duty service. The Board, relying upon the AO, did conclude that Petitioner's current DD Form 214 does not accurately reflect his net active-duty service. Relief is thus warranted in the form of changing his "Net Service This Period" and "Total Active Service" to reflect 5 months, 29 days of active-duty service.

RECOMMENDATION

In view of the above, the Board directs the following corrective action:

Correct Petitioner's record by issuing a new Certificate of Release or Discharge from Active Duty (DD Form 214) or DD 215 to reflect:

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

Net Service This Period: 5 months, 29 days

Total Active Service: 5 months, 29 days

No further changes to 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.

5/8/2026

