



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

DJC
Docket No. NR10539-14
7 Apr 15

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

Subj: REVIEW OF NAVAL RECORD ~~ICQ~~

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) HQMC memo 1910 MMSR-2 dtd 17 Mar 15
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to adjust payment of Involuntary Separation Pay (ISP) when he was discharged.

2. The Board, consisting of _____, _____ and _____ reviewed Petitioner's allegations of error and injustice on 6 April 2015 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 the enclosures, naval records, 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 existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

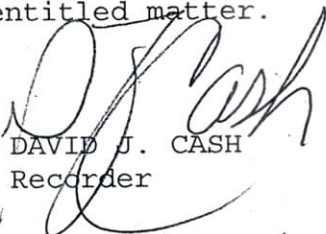
That Petitioner's naval record be corrected, where appropriate, to show that:

a. Petitioner was authorized to receive an increased amount of separation pay in accordance with FY91 Defense Authorization Act (Public Law 101-510), enacted on 5 November 1990, providing he agreed to serve in the Ready Reserve for a period of not less than 3 years. Note: On 1 December 1990, Petitioner was discharged for failure of selection for promotion and received Separation pay of \$30,000. Furthermore, on 14 June 1999, Petitioner received his Notification of Entitlement to Retired Pay at Age 60. On 30 September 1999, Petitioner transferred to the Retired Reserve Awaiting Pay at Age 60. Finally, on 12 August 2014, he begin receiving retire pay.

b. Note: 10 U.S. Code § 1174(h)1 states the following: "A member who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid."

c. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that 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.


DAVID J. CASH
Recorder

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 Regulations, 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.

7 Apr 15

A handwritten signature in black ink, appearing to read "R. J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL
Executive Director