



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

JET
Docket No. NR8226-14
4 May 15

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 April 2015. 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, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by OCNO memo 7220 N130D2/14U0995 of 28 July 2014 and OCNO memo 7220 N130D2/14U01313 of 8 October 2014, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In making this determination, the Board concurred with the comments contained in the advisory opinion. In reviewing your case, the Board noted from the documents you provided, that you reenlisted on 2 July 2008 for a term of 59 months, and a Selective Reenlistment Bonus (SRB) of \$60,000 for your Machinist Mate nuclear rating and Navy Enlisted Classification (NEC). That in December 2009 you were diagnosed with high blood pressure and depression/adjustment disorder. The Board further noted that you were prescribed Lisinopril and Hydrochlorothiazide for the high blood pressure and Prozac for anxiety and depression. The Board also noted that after a 2 July 2010 sea duty screening, you were deemed not world-wide assignable, which resulted in the loss of your NEC. On 22 August 2011 your command notified you that you would be administratively separated, and on 6 September 2011 you were discharged from the Navy with a Separation Program Designator (SPD) code of "HFV". The SPD code's definition is "Condition Not a Disability." In a letter dated 12 March 2012,

Defense Finance and Accounting Service (DFAS) notified you that you had a debt of \$26,102.74 due to overpayment of your SRB.

Your application claims "1. The debt is unjust because I was involuntarily separated with an Honorable discharge due to a medical illness of no fault of my own. 2. My records indicate I was paid a severance, this incorrect. I never received the severance package nor was it applied to my debt." With regard to your first issue, the Board found that under MILPERSMAN 1910-120, adjustment disorder is one of the conditions which do not amount to a disability per NAVADMIN 273/12, and which warrants recoupment of the unearned portions of bonuses. The Board felt that the Navy did not err in its decision to recoup the unearned portion of the SRB, because of the adjustment disorder in conjunction with your other medical conditions for which you were separated. Furthermore, the Board felt that because you did not fulfil the full terms of the SRB contract, the unearned portion of your SRB was recouped as it rightfully should have been.

With regards to your second issue, the Board concurred with the advisory opinion that the Certificate of Release or Discharge from Active Duty (DD Form 214), erroneously reported that you were entitled to an Involuntary Separation Pay (ISP) of \$13,635.36. Per OPNAVINST 1900.4, paragraph 7.b. "The service member has entered into a written agreement to serve in the Ready Reserve for a period of no less than three years following separation from active duty." Department of Defense, Financial Management Regulation (DoD FMR), Vol. 7A, Chap. 35, paragraph 350201.C.4. further states "The member must have entered into a written agreement with the Military Service concerned to serve in the Ready Reserve for a minimum period of 3 years following separation from active duty." The Board again concurred with the advisory opinion that you if you wish to become eligible for the ISP and have it applied towards your debt, you must first affiliate with the Ready Reserve.

In your application, you also claim that 20 days of your leave was withheld from you. The Board concurred with the advisory opinion that the value for the 20 days of leave was rightfully applied towards your debt to the U.S. government. The Board notes and concurs with the advisory opinion dated 8 October 2014, that you should contact the Department of Veterans Affairs (DVA) with a copy of the advisory opinion regarding your disability pay. It is in your best interest to also take a copy of this letter, with the Board's concurrence of your ineligibility for ISP due to your lack of affiliation with the Ready Reserve. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in

this case. 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,

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

ROBERT J. O'NEILL
Executive Director

Enclosure: 1. OCNO memo 7220 N130D2/14U0995 of 28 Jul 14
2. OCNO memo 7220 N130D2/14U01313 of 8 Oct 14