



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

[REDACTED]
Docket No. 7942-20
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1900.16 w/chapter 2

Encl: (1) DD Form 149 w/attachments
(2) HQMC 1820 MMSR-5 of 19 Jan 21
(3) Subject's naval record

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 that his naval record be corrected to establish retired rank/pay grade to Captain(CAPT)/O-3 vice First Sergeant (1stSgt)/E-8.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 September 2021 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, 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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. In accordance with reference (b), paragraph 1402.3d, eligible Marines transferred to the retired list (officer retirement or enlisted with 30 years total service) shall be entitled to retired pay at the applicable rate of pay in the highest grade satisfactorily held. This determination is made by the Commandant of the Marine Corps for enlisted grades and by the Secretary of the Navy (SECNAV) for officer grades.

b. On 18 April 1974, Petitioner enlisted in the United States Marine Corps Reserve (USMCR) for a term of 6-years for participation in the Officer Candidate Course (OCS). Petitioner participated in active duty for training periods during OCS.

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c. On 28 May 1976, Petitioner completed OCS and appointed a Second Lieutenant/O-1 in USMCR on active duty effective 29 May 1976.

d. On 24 July 1979, Petitioner discharged to accept appointment in USMC effective 25 July 1979.

e. Petitioner promoted to CAPT/O-3 effective 1 July 1981.

f. On 1 December 1988, Petitioner honorably discharged in the rank/paygrade of CAPT/O-3 with 12-years, 6-months and 3-days cumulative active duty service.

g. On 20 December 1990, Petitioner enlist in the USMCR for a term of 3-years in pay grade E-6; pay entry base date established as 7 May 1976.

h. Petitioner transferred to the Retired Reserve Awaiting Pay at Age 60 effective 1 January 2007. Authorization letter indicates on effective date of retirement, Petitioner's grade for retired pay is 1stSgt/E-8, and he completed 25-years, 7-months, and 13- days of qualifying service.

i. Petitioner transferred to the Retired List with pay effective 4 December 2013. Authorization letter indicates Petitioner transferred to the Retired Reserve (without pay and allowances) on 1 January 2007 with grade for retired pay as CAPT/O-3, and completed 26-years, 7-months, and 13-days of qualifying federal service. Additionally, the authorization notes that upon eligibility for retired pay Petitioner will have completed 37-years, 6-months, and 27-days of accumulative service.

j. 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. The Board determined the highest grade the Petitioner held during his Marine Corps service was CAPT/O-3. Therefore, in accordance with reference (b), Petitioner was eligible and entitled to associated pay and allowances as approved by the Secretary of the Navy via Headquarters Marine Corps on 3 September 2013. The Board felt, under these circumstances, relief is warranted.

RECOMMENDATION

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

Upon reaching 30 years of total service, Petitioner requested to be transferred to the Retired List in the rank/pay grade of CAPT/O-3 and it was approved by SECNAV via Headquarters Marine Corps on 3 September 2013.

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[REDACTED]

Effective [REDACTED] (on 60th birthday) Petitioner authorized retired pay in the rank/pay grade of CAPT/O-3.

Note: Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine retroactive pay entitlement.

A copy of this Report of Proceedings will 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.

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

10/28/2021

[REDACTED]

Deputy Director

[REDACTED]