



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

█
Docket No. 646-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, USN,
XXX-XX-█

Ref: (a) Title 10 U.S.C. §1552
(b) OPNAVINST 1160.8A of 30 Jan 07
(c) OPNAVINST 1160.8B of 1 Apr 19

Encl: (1) DD Form 149 w/attachments
(2) OCNO memo 1160 of 1 Sep 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 show remission of indebtedness in the amount of \$15,000.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 19 October 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, 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 accordance with reference (b), members who reenlisted/executed an extension for Selective Reenlistment Bonus (SRB0 prior to applying for an officer procurement program requiring formal academic training, will have remaining installments suspended as of their class convening date.

SRB entitlement for eligible members, who reenlist/ extend after applying for an officer program, will be suspended pending selection results. SRB is authorized for applicants who are either not selected, chosen as alternates, or withdraw their application for an officer program. SRB is not authorized for members selected for participation in an officer program.

c. On 9 February 2016, Naval Special Warfare Recruiting Directorate notified Commander, Navy Personnel Command (PERS-401D) that the member successfully completed the screening process for Physical Screening Test (PST) for Officer Candidate School.

d. On 18 March 2016, Petitioner reenlisted for 5 years with an End of Active Obligated Service (EAOS) of 17 March 2021. Furthermore, Petitioner signed an administrative Remarks (NAVPERS

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1070/613) acknowledging: "Reenlisted this date. Entitled to SRB based on RATE RATING/NEC SRB Zone "A" award level 3.0 total SRB entitlement is \$30,000. First installment of \$15,000 authorized for payment. Member acknowledges that approval of advance or remaining amount payment is not automatic but dependent on funds available and hardship relative to others requesting similar payment.

e. On 15 June 2016, Petitioner submitted his application for Officer Candidate School to President, SEAL Officer Selection Panel, United States Navy.

f. On 6 January 2017, Petitioner was issued a Regular Evaluation Report And Counseling Record for the period of 16 March 2016 to 6 January 2017. Report was submitted upon member's transfer to Officer's Candidate School (OCS) in [REDACTED]. Petitioner was selected under the OCS program.

g. On [REDACTED], Petitioner arrived to S OCS [REDACTED] for training.

h. On [REDACTED], Petitioner was honorably discharged in order to accept commission or warrant in same branch of service.

i. On [REDACTED], Petitioner was commissioned as an Ensign in the U.S. Navy.

j. On 11 June 2018, Office of the Assistant Secretary notified Petitioner that after careful consideration. They couldn't support Petitioner's request for remission of indebtedness. In line with the guidance set forth in Navy policy. OPNAVINST 1160.8A. A sailor who reenlists after submitting an application for an officer program will have their SRB payments suspended pending selection results. Unfortunately, this action did not occur and Petitioner was erroneously received an initial SRB payment. Additionally, you were selected for an officer program which made you ineligible for SRB. Regrettably, Petitioner's request for remission of indebtedness was denied.

k. In accordance with reference (c), for non-nuclear Sailors (and nuclear-trained Sailors applying to officer procurement programs leading to a commission as a nuclear-trained officer), the date of application is the mandatory submission date of the program identified by the governing policy (i.e., NAVADMIN). For nuclear-trained Sailors applying to all other commissioning programs that do not lead to a commission as a nuclear trained officer, the date of application is the date of conditional release from OPNAV (N133).

Members who reenlisted or executed an extension for SRB prior to applying for an officer procurement program requiring formal academic training will have remaining installments suspended as of their class convening date. For programs not requiring formal education, future payments are suspended as of the commissioning date.

l. 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.

m. On 12 October 2021, Petitioner submitted a rebuttal to the advisory opinion (AO), stating that the Office of the Chief of Naval Operations (CNO) supports Petitioner's position in this matter. As indicated in the opinion and in Petitioner's prior submission to this Board, the applicable instruction in effect at the time of Petitioner's application for commissioning (OPNAVINST 1160.8A of 30 January 2007) did not suggest that the date of the Commanding Officer's endorsement was to be utilized in determining the "application date." As the AO indicates, "It is not legally objectionable to construe reference (b)'s suspension of SRB payments to apply to payments made after the commissioning application is received by the selection authority and not the dates of various components of the application itself." Certainly, as

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indicated in the 1 September 2021 AO, CNO's office has expressed no objection to this favorable resolution for Petitioner.

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 partial corrective action. The Board concluded that Petitioner's application for Officer Candidate School was erroneously determined to be 9 February 2016. When Petitioner reenlisted on 18 March 2016 and received his first installment of SRB, it was later recouped because a sailor who reenlists after submitting an application for an officer program will have their SRB payments suspended pending selection results. The Board denied remission of indebtedness; however, the Board concluded that Petitioner's application for Officer Candidate School should be recorded as 15 June 2016, authorizing him to receive all SRB payments up to his class convening date.

RECOMMENDATION

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

Petitioner reenlisted for SRB prior to applying to the OCS program. Remaining installments were suspended as of his class convening date.

Note: Defense Finance and Accounting Service (DFAS) will conduct an audit to verify total amount of SRB installments Petitioner was entitled to up to the OCS class convening date of [REDACTED]

That part of the Petitioner's request for corrective action that exceeds the foregoing is denied.

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.

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.

11/27/2021

[REDACTED]

Deputy Director

Signed by: [REDACTED]