



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

██████████
Docket No: 3681-21
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) 10 U.S.C. §1552
(b) COMNAVCRUITCOMINST 1130.8K
(c) MILPERSMAN 1220-300
(d) MILPERSMAN 1510-030

Encl: (1) DD Form 149 w/enclosures
(2) DD Form 214
(3) DD Form 4
(4) DD Form 1966
(5) NAVCRUIT 1133/52 – Annex A
(6) BUD/S Graduation Certificate
(7) NSIPS Member Data Summary
(8) Advisory Opinion by NPC (PERS-803) of 26 Jul 21
(9) Advisory Opinion by NRC of 8 Oct 21

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 reflect advancement date for Time in Rate (TIR) and back pay for Special Warfare Operator Second Class (SO2)/E-5 effective 17 June 2019.

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's application on 23 November 2021. The names and votes of the panel members will be furnished upon request. Petitioner allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b through d) and enclosures (1 through 9).

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:

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,
XXX-XX-[REDACTED]

a. In accordance with reference (b), upon execution, DD Form 4 (Enlistment/Reenlistment Document) is an official legal agreement between the United States Government and enlisted members. Reference (c) outlines the requirements for the Special Warfare Operator (SO) rating designation. Specifically, the policy indicates the SO "A" school training pipeline consists of seven required sequenced courses. Upon completion of the SO "A" school training pipeline, enlisted personnel are awarded Navy Enlisted Classification O26A and designated as a SO. Reference (d) specifies the requirements for guaranteed advancement for personnel in the Advanced Technical Field (ATF) programs; SO falls under the ATF program.

b. On 9 September 2008, Petitioner entered active duty in the United States Marine Corps and was discharged as a sergeant/E5 on 1 May 2013 with an honorable characterization of service. See enclosure (2).

c. On 15 May 2017, Petitioner enlisted in the Navy for a term of 4 years in the paygrade of E-3 with the understanding he would advance to SO/E5 upon completion of Basic Underwater Demolition Training (BUD/S). Petitioner's DD Form 4, section D, subsection 13a states "that only those agreements in section B and section C of this document or recorded on the attached annex(es) will be honored." See enclosure (3).

d. Petitioner's DD Form 1966 (Record of Military Processing) Block 34b states "Authorized SO2/E5 upon completion of Basic Underwater Demolition Training (BUD/S)" and an active duty service date of 15 May 2017. See enclosure (4).

e. Petitioner's NAVCRUIT 1133/52 (Prior Service Enlistment Guarantees) Annex "A" states "Authorize SO2/E5 upon completion of Basic Underwater Demolition Training (BUD/S)." See enclosure (5).

f. On 17 June 2019, Petitioner completed Basic Underwater Demolition/SEAL Training. Petitioner's Navy Standard Integrated Personnel System (NSIPS) reflects Basic Underwater Demolition/SEAL completion on 17 June 2019 and 31 July 2019. See enclosures (6) and (7).

g. On 19 March 2021, Petitioner was advanced to SO2/E-5 after completing SEAL Qualification Training. See enclosure (7).

h. On 26 July 2021, Navy Personnel Command (NPC)(PERS-803) provided an unfavorable advisory opinion. Stating that Petitioner was correctly advanced to SO2/E5 upon successful completion of SO "A" training pipeline effective 19 March 2021. See enclosure (8).

i. On 8 October 2021, Navy Recruiting Command (NRC) provided an unfavorable advisory opinion. Stating that Warrior Challenge trainees must complete the full Class "A" School training pipeline prior to being designated in rate and advanced to senior paygrades, and that Petitioner was advanced properly upon successful completion of the SO Class "A" School training pipeline on 19 March 2021. See enclosure (9).

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,
XXX-XX-[REDACTED]

CONCLUSION

Upon review and consideration of all the evidence of record, and notwithstanding enclosures (8) and (9), the Board finds the existence of an injustice warranting relief. In this regard, the Board unanimously concluded Petitioner's enlistment guarantee authorized advancement to SO2/E5 upon completion of Basic Underwater Demolition Training (BUD/S), and that there is no mention of any other requisite requirements for advancement on Petitioner's contract. The Board believed the service should honor Petitioner's enlistment guarantee as written, especially in light of his completion of SEAL qualification training and designation as a Special Warfare Operator, therefore, under these circumstances, relief is warranted.

RECOMMENDATION

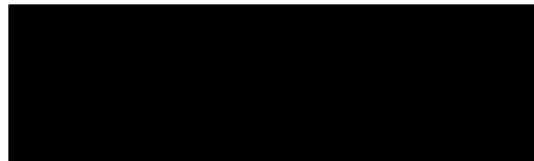
Petitioner's NAVCRUIT 1133/52 (Prior Service Enlistment Guarantees) Annex "A" shall be amended as "15 May 2017" vice "23 January 2017."

An exception to policy authorized Petitioner's advancement to SO2/E-5 effective "17 June 2019" vice "19 March 2021" with a time in rate date of "1 January 2019" vice "1 January 2021."

Note: The change to the effective date for advancement to E-5 may have also affected Petitioner's E-6 advancement opportunity. If Petitioner was eligible for, but did not take the E-6 examination because the above change had not yet been made, the following procedures will apply to remediate that missed opportunity. Petitioner should reapply to this Board for consideration of advancement to E-6 retroactive to the date Petitioner would have been advanced on the "missed" examination cycle(s). Petitioner must submit a DD Form 149, with at least a copy of worksheet for the missed cycle(s), command endorsement/recommendation, and a copy of this letter. The Board will then determine whether the request will be approved.

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. The foregoing action of the Board is submitted for your review and action.

12/20/2021



Executive Director

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,
XXX-XX-[REDACTED]

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Recommendation (Grant Relief)

Reviewed and Approved Advisory Opinion(s) Recommendation (Deny Relief)

1/14/2022

[REDACTED]

[REDACTED]

Assistant General Counsel (M&RA)

[REDACTED]