



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

[REDACTED]
Docket No. 4033-21
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) NAVADMIN 094/20
(c) NAVADMIN 047/21

Encl: (1) DD Form 149 w/attachments
(2) NPC memo 5420 PERS 806 of 30 Jul 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 reflect promotion to Lieutenant Commander (LCDR)/O-4 effective October 2020 and associated back pay and allowances.

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. On 27 May 2011, Petitioner was appointed/commissioned in U.S. Navy; military service obligation end date 26 May 2019.

b. In accordance with reference (b), Petitioner was selected for promotion to LCDR/O-4.

c. On 20 November 2020, Navy Personnel Command (PERS-415) in response to Petitioner inquiry regarding obligation from promotion, notified him that if appointment to LCDR/O-4 is not declined, he would incur an additional 2-year service obligation upon appointment. Petitioner replied that he intended to decline promotion and PERS-415 responded that he could decline the appointment through his administrative department.

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

d. Reference (c), authorized the delivery of Petitioner's appointment to LCDR/O-4 effective 1 October 2020.

e. On 25 February 2021, Petitioner declined permanent appointment to LCDR/O-4 based on the erroneous information provided by PERS-415 on 20 November 2020 and his plan to resign his commission in May 2022.

f. 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 concluded Petitioner declined appointment to LCDR/O-4 based on erroneous information provided from PERS-415; therefore, relief is warranted.

RECOMMENDATION

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

Petitioner's declination of permanent appointment in writing dated 25 February 2021 is rescinded and shall be removed from his naval records. Note: Remove the failure of selection for fiscal year 2021 and assign Petitioner with the new appropriate lineal number.

Petitioner was appointed to the rank of LCDR/O4 effective 1 October 2020 and is entitled to all associated back pay and allowances.

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]