



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

██████████
Docket No. 5433-21
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 10 U.S.C. § 1201
(c) DODFMR, VOL 7B

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214 of 28 Jan 21
(3) DD Form 2839 of 28 Mar 12
(4) Informal Findings of the PEB Proceedings of 5 Nov 20
(5) Advisory Opinion by BUPERS of 10 Oct 21
(6) Petitioner's Rebuttal Statement of 26 Nov 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 her naval record be corrected by rescinding Career Status Bonus (CSB)/REDUX retirement and receive the associated retroactive pay from date of retirement.

2. The Board, reviewed Petitioner's allegations of error and injustice on 8 December 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 enclosures (1) through (6), relevant portions of Petitioner's naval records, 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, she 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), "upon a determination by the Secretary concerned that a member described in subsection (c) of the policy is unfit to perform the duties of the member's office, grade, rank, or rating because of physical disability incurred while entitled to basic pay, the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b)."

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b. Reference (c), indicates “the retired pay or retainer pay multiplier of members who elected the CSB with REDUX retirement will be reduced 1 percentage point for each full year of creditable service less than 30 and 1/12th of 1 percent for each full month of creditable service less than a full year.”

c. Petitioner’s Active Duty Service Date was 20 August 1997. See enclosure (2).

d. On 28 March 2012, Petitioner signed DD Form 2839, Career Status Bonus (CSB) Election and elected to receive a lump sum payment of \$30,000 effective 20 August 2012. By signing the CSB Election form, Petitioner acknowledged her understanding of how retired pay would be calculated if and when she retired. See enclosure (3).

e. On 5 November 2020, Petitioner was found unfit by the Physical Evaluation Board (PEB) with a 100% disability rating. Unfitting Conditions: Post Traumatic Stress Disorder (PTSD), Chronic (Stable) did not result from a combat related injury as defined by Title 26 U.S. Code Section 104(b)(3). See enclosure (4).

f. On 28 January 2021, Petitioner transferred to the Permanent Disability Retired List (PTSD). See enclosure (2).

g. On 10 October 2021, Navy Personnel Command (PERS-836) provided an unfavorable advisory opinion to enclosure (1). PERS-836 recommended disapproval of relief based on Petitioner receiving the proper retirement “under the correct law and is receiving the correct retirement compensation based on the information provided by DFAS.” See enclosure (5).

h. On 26 November 2021, Petitioner provided a statement in response to PERS-836 findings explaining her hardships with her autistic child, intent to serve 30 years, her deteriorating mental and physical health, being the sole provider for her three children, and ending an abusive marriage of 21 years. Petitioner also indicated, “I would have no problems in repaying amount received.”

BOARD CONCLUSION

Upon review and consideration of all the evidence of record, the Board unanimously concluded the Petitioner’s request warrants favorable corrective action, despite the contents of enclosure (5). In this regard, the Board felt, that Petitioner elected the CSB with the intent to serve 30 years of active duty service, believed it an injustice that she could not complete the 30 years due to PTSD and the financial hardship to her family. Lastly, the Board took into account the service limitations for a Senior Chief/E-8 is 28 years of active duty service and believed that Petitioner would have been eligible for Master Chief/E-9 well before reaching this limit. Therefore, under these circumstances, relief is warranted.

BOARD RECOMMENDATION

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

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Petitioner's DD Form 2839, Career Status Bonus (CSB) Election of 28 March 2012 is null and void.

This change will create a \$30,000 debt to Petitioner's pay account.

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

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.

1/25//2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Recommendation (Grant Relief)

Reviewed and Approved Request (Deny Relief)

2/7/2022

[REDACTED]

Assistant General Counsel (M&RA)

[REDACTED]