



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

■
Docket No. 7067-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MEMBER ■■■■■■■■■■,
USNR, XXX-XX-■■■■■

Ref: (a) Title 10 U.S.C. § 1552
(b) DODI 1332.29
(c) MILPERSMAN 1920-030
(d) MILPERSMAN 1160-120
(e) MILPERSMAN 1160-040

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by NPPSC ltr 5400, 11 Jul 22
(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 discharge on 28 September 2021 to establish eligibility to receive Involuntary Separation Pay (ISP).

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■ reviewed Petitioner's allegations of error and injustice on 27 July 2022 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. Petitioner's Active Duty Service Date was 29 September 2005.
- b. Petitioner advanced to Master-At-Arms Second Class/E-5 on 16 December 2011.
- c. On 28 December 2017 Petitioner reenlisted for a term of 3 years and thereafter executed a 9-month extension; end of active obligated service (EAOS) 27 September 2021.

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d. In March 2021 Petitioner participated Cycle 251 Navy Wide Advancement Exam and passed not advanced.

e. On 8 September 2021 Petitioner issued BUPERS Order: [REDACTED] (Official Separation Orders) with an effective separation date of 27 September 2021, honorable Characterization of Service, and Separation Program Designator (SPD) code of "JBK." On 8 September 2021 Petitioner signed "Involuntary Separation Pay" NAVPERS 1070/613, Administrative Remarks.

f. Petitioner's Detachment of Individual NAVPERS 1616/26, Evaluation Report & Counseling Record (E1-E6) for period of report 16 March 2021 through 27 September 2021 recommended advancement and retention. On 27 September 2021 Petitioner was discharged as a result of reaching High Year Tenure (HYT)¹. At the time of discharge, Petitioner completed 15 years, 11 months and 29 days of active duty service, received an SPD of "JBK" and Reentry Code of "RE-6."

g. On 20 January 2022 Naval Personnel Command (NPC) (PERS-93) informed the Board that Petitioner's command was notified prior to discharge that he would need a 1-month extension as his current separation date was 1-day prior to reaching his HYT gate. On 20 January 2022 NPC Career Transition Officer confirmed Petitioner was approved to enter Selected Reserve but was waiting for his discharge date to be corrected prior to processing the enlistment documents signed on 29 September 2021.

h. 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. Petitioner met the eligibility criteria to receive ISP in accordance with references (b)² and (c)³. However, because of Command administrative oversight, an extension of Petitioner's EAOS was not completed and he discharged 1-day prior to reaching his HYT gate, thereby impeding his ability to receive ISP. Although the proper administrative requirements were not completed, the Board felt that under these circumstances, relief is warranted.

¹ Reference (d), HYT for Sailors in paygrade E-5 is 16-years length of service. Reference (e), specifies members may not exceed their enlistments more than 30-days beyond their HYT date, and extensions within 30 days of HYT do not require a HYT waiver.

² Reference (b), full payment of non-disability ISP is authorized to Service members who are involuntarily separated from active duty and meet the five specified criteria listed. This criteria includes, eligible Service members must prior to separation enter into a written agreement to serve in the Ready Reserve for a period of 3-years in addition to any service obligation remaining at the time of separation. Additionally, Service members must sign a mandatory disclosure statement regarding the consequences of collecting retired/retainer pay or Veterans Affairs disability compensation after receiving ISP.

³ Reference (c), requires enlisted Sailors to have the Commanding Officer's recommendation for advancement and retention and are required to take and pass the most recent advancement examination before separation to qualify for full separation pay.

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RECOMMENDATION

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

Petitioner was approved and executed NAVPERS 1070/621, Agreement to Extend Enlistment dated 28 December 2017 for a term of 1 month [aggregate of 10 months] per reference (e). EAOS 27 October 2021.

Petitioner's BUPERS Order: [REDACTED] (Official Separation Orders) is amended to reflect effective date of separation "28 September 2021" vice "27 September 2021."

Petitioner issued DD Form 215, Correction to DD Form 214 dated 27 September 2021 modifying Block 6 (Reserve Obligation Termination Date) "28 September 2024" vice "NA"; Block 12.b (Separation Date this Period) "2021 09 28" vice "2021 09 27" Block 12c (Net Active Services this Period) "16 years, 00 months and 00 days" vice "15 years, 11 months, and 29 days" Block 18 (Remarks) to reflect entitlement to Full ISP; and Block 23 (Type of Separation) "RELADU and Transferred to NAVRES" vice "Discharged." Note: Navy Personnel Command shall determine ISP amount and adjust Block 18 accordingly.

Petitioner reenlisted on 29 September 2021 for a term of 3 years.

Petitioner authorized payment of "Full" ISP based on his 28 September 2021 active duty discharge. Note: Petitioner is required to sign a mandatory disclosure statement per reference (b) prior to the processing of ISP.

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

8/8/2022

[REDACTED]

Deputy Director

Signed by [REDACTED]