



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

[REDACTED]
Docket No. 8067-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]
[REDACTED] USMCR

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO P1900.16E of 19 Aug 95
(c) MCO 1900.16 change 1 of 7 Aug 15

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by HQMC of 4 Feb 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 show he submitted a request to be transferred to the retired reserve, without pay and was approved by cognizant authority.¹

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 February 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, 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. On 1 March 2001, Petitioner was promoted to Gunnery Sergeant/E-7.

c. On 4 February 2002, Petitioner executed active duty orders in support of Operation Enduring Freedom.

¹ In accordance with reference (b), Requests for voluntary retirement will be submitted by the reporting command via the unit diary system in MCTFS per MCO P10S0.35 (PRIM) and paragraph 2004. Requests outside the 4 to 14 month submission timeframe must be submitted via separate correspondence/naval message to the CMC (MMSR-5) with justification and endorsements.

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]

[REDACTED] 9 USMCR

d. On 18 October 2002, Petitioner signed his fourth agreement to extend enlistment (NAVMC 321A) for 12 months with a Reserve ECC of 25 November 2003 in order to have sufficient obligated service to complete required PME.

e. On 1 March 2003, Petitioner completed 20 years of satisfactory service.

f. On 20 November 2003, Petitioner was honorably released from active duty upon completion of required active service.

g. On 20 February 2004, Petitioner was honorably discharged.²

h. On 30 December 2022, Petitioner will turn 60.

i. 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 that Petitioner should have submitted a request for voluntary retirement prior to the end of his contract; however, Petitioner had executed active duty orders in support of Operation Enduring Freedom, was released from active duty upon completion of required active service, and was subsequently discharged. The Board concluded that Petitioner completed over 20 years of qualifying service and his failure to request retirement should not prevent his placement in the Retired Reserve awaiting pay at age 60.

RECOMMENDATION

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

Petitioner was transferred to the retired reserve awaiting pay at age 60, effective 1 March 2004 in the rank of Gunnery Sergeant. Note Petitioner must submit a DD Form 108 approximately 6 months prior to his 60th birthday or earlier if eligible.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

² In accordance with reference (c), retired pay benefits must be requested; the process is not automatic. Marines of the Retired Reserve and former members of the Reserve who are eligible under paragraph 3011 may apply for retired pay by the use of DD Form 108 (Application for Retired Pay Benefits).

The CMC (MMSR-5) provides a DD Form 108 to Marines on the Reserve Retired List Awaiting Pay at Age 60, approximately 6 months prior to their 60th birthday or earlier if eligible per reference (au) DoDI 1200.15. DD Form 108 contains a summary of creditable service for the Marine's verification. Should an eligible Marine not receive the form within the above timeframe, notify the CMC (MMSR-5).

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER [REDACTED]
[REDACTED] USMCR

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.

3/11/2022

[REDACTED]

Deputy Director

[REDACTED]