



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

[REDACTED]
Docket No. 499-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MBR [REDACTED],
USNR, XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1001.39F of 17 Sep 07
(c) MILPERSMAN 1160-120 of 8 May 18
(d) OPNAVINST 1900.4A of 19 Feb 19

Encl: (1) DD Form 149 w/attachments
(2) 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 Petitioner's DD Form 214 show High Year Tenure (HYT) for E-5, severance pay benefits, and the ability to join the reserves and request for retirement.

2. The Board, consisting of [REDACTED], [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 29 November 1999, Petitioner enlisted in the Naval Reserve for 8 years with an Expiration of Obligated Service of 28 November 2007.

c. On 19 July 2000, Petitioner entered active duty for 4 years in the Navy with an End of Active Obligated Service (EAOS) of 18 July 2004 and Soft End of Active Obligated Service (SEAOS) of 18 July 2005.

d. On 14 December 2004, Petitioner reenlisted for 3 years in the Navy with an EAOS of 13 December 2007.

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e. In accordance with reference (b), unless otherwise provided by law, a Reservist must have completed 20 years of qualifying service to be eligible for non-regular service retired pay at or after age 60. For members who complete 20 years of qualifying service on or after 25 April 2005, the last 6 years of qualifying service in a Reserve component is not a requirement to qualify for non-regular retired pay.

f. On 16 November 2007, Petitioner signed an agreement to extend enlistment for 7 months with an SEAOS of 13 July 2008 in order to match EAOS to HYT.

g. On 18 July 2008, Petitioner was honorably discharged upon completion of required service. Petitioner was a HM3/E-4 with an effective date of pay grade of 16 June 2003, and received a reentry code of RE-6 (Ineligible or denied reenlistment due to High Year Tenure). Furthermore, Petitioner received involuntary separation pay.

h. On 13 November 2008, Petitioner reenlisted for 3 years in the Naval Reserve with an Expiration of Reserve Enlistment (EREN) of 12 November 2011.

i. On 25 October 2011, Petitioner reenlisted for 3 years in the U.S. Naval Reserve with an EREN of 24 October 2014.

j. On 19 October 2014, Petitioner reenlisted for 6 years in the Naval Reserve with an EREN of 18 October 2020. Petitioner was a HM2/E-5 with an effective date of pay grade of 16 March 2010.

k. On 16 December 2016, Petitioner reenlisted for 4 years in the Navy with an EAOS of 15 December 2020.

l. In accordance with reference (c), HYT dates for Active Component (AC) and Full Time Support (FTS) are based on the active duty service date. HYT dates for USNR and USNR-S1 are based on the pay entry base date.

For AC and FTS members in pay grades E-1 through E-4, use only total active duty Navy service to compute HYT dates. For AC and FTS members in pay grades E-5 through E-9, use all earned active military service (from any Armed Service) to compute HYT dates.

Maximum Years of Service for an AC and FTS in the grade of E-5 is 16 years. Maximum years of service for USNR (SELRES, IRR (VTU and ASP)), and USNR-S1 in the grade of E-5 is 20 years. Eligible for an HYT waiver to serve in the SELRES, USNR S1, or VTU NTE 20 total qualifying years of service.

m. In accordance with reference (d), to prescribe policy and procedures for award of separation pay upon involuntary separation, discharge, or release from active duty, as authorized by 10 U.S.C. §1174 and DoD Instruction 1332.29 of 3 March 2017. This instruction applies to Navy members involuntarily separated from active duty on or after November 1990. The phrase “involuntarily separated, discharged, or released from active duty” includes all forms of separation under conditions wherein the individual is released from active duty at any time prior

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to the completion of a stipulated period of active service or tour of active duty. The phrase “not accepted for an additional tour of active duty for which they volunteered” refers to members who, prior to completing a tour of active duty or a stipulated period of active service, or upon notification of the intent to separate them from active duty, volunteer to remain on active duty for an additional tour but are not accepted.

n. On 29 August 2019, Petitioner signed an agreement to extend enlistment for 12 months with an SEAOS of 15 December 2021 in order to incur sufficient obligated service to execute BUPERS order 2359.

o. On 10 November 2021, Petitioner signed a Regular Evaluation Report and Counseling Record for the period of 16 March 2021 to 15 December 2021. This was a Detachment of Individual report and he received an Early Promote recommendation and was recommended for retention.

p. On 2 December 2021, Petitioner was issued official separation orders (BUPERS order: 3361) while stationed in [REDACTED] with an effective date of departure of December 2021. Petitioner’s place elected for travel was [REDACTED] with an effective date of separation 15 December 2021.

q. On 15 December 2021, Petitioner was honorably discharged upon completion of required active service. Petitioner was a HM2/E-5 with an effective date of pay grade of 16 December 2016, and received a reentry code of RE-R1 (Recommended for preferred reenlistment). Furthermore, Petitioner’s separation code was KBK, separation pay not eligible.

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 partial corrective action. The Board concluded that Petitioner’s 10 November 2021 Regular Evaluation Report and Counseling Record showed that he was recommended for retention and he received an Early Promote. Furthermore, Petitioner provided no evidence that he requested to reenlist and was denied. Petitioner was discharged at the completion of required active service and not for HYT, therefore his RE Code was correct, and Petitioner is not eligible for severance pay. The Board concluded that at the time of his discharge, Petitioner had over 20 years of qualifying service, therefore, he should have been afforded the opportunity to reenlist in the Navy Reserve and submit for a Reserve Retirement.

RECOMMENDATION

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

Petitioner reenlisted for 2 years in the Naval Reserve on 16 December 2021, with an EREN of 15 December 2023. Note: Adjust Petitioner’s DD Form 214 if necessary.

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Petitioner was transferred to the retired reserve, without pay, effective 31 December 2021. Note: Petitioner completed over 20 years of qualifying service.

That part of the Petitioner's request for corrective action that exceeds the foregoing be denied.

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.

3/21/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]