



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

[REDACTED]
Docket No. 2731-22
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1001.39D of 20 Feb 01

Encl: (1) DD Form 149 w/attachments
(2) NPC ltr 5730 PERS-91 received 13 Jun 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 establish satisfactory years of qualifying service for anniversary years ending 23 May 2014, 23 May 2015, and 23 May 2018.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 30 June 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 4 June 1997 Petitioner enlisted for 8 years in the U.S. Naval Reserve. Petitioner was honorably released from active duty from the U.S. Naval Reserve and was issued a DD Form 214 for the period of 24 July 1997 to 30 June 1998 for enrollment in service academy.

c. In accordance with reference (b), the full year periods used for the crediting of qualifying years for non-regular retirement shall be based on "anniversary" years. These anniversary year periods are calculated from an anniversary date unique to each service member. Effective 1 October 1995, the date used to determine the anniversary year is established by the date the member entered into active service or into active status in a Reserve component, whichever is earlier. Members with previously established anniversary dates will retain that date as the beginning of their anniversary year. There are two exceptions as follows: a. In the case of

officers with Reserve service as a cadet or midshipman at a service academy or in the Reserve Officers' Training Corps program, the date for the start of a member's initial anniversary year will be established as the date the member entered into active service or active status minus any service as a cadet or midshipman. Failure to earn 50 points in an anniversary year will result in a non-qualifying year for retirement.

d. On 24 May 2002 Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/4) in the active U.S. Naval Reserve as an Ensign with a day of rank 24 May 2002 with a designator code of 1165 (Unrestricted Line Officer billet for an officer in training for Surface Warfare qualification).

e. On 27 October 2009 Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/4) in the inactive U.S. Naval Reserve as a Lieutenant with a day of rank 1 June 2006 with a designator code of 1115 (URL Officer qualified as a Surface Warfare Officer).

f. Petitioner was honorably Discharged from active duty from the U.S. Navy and was issued a DD Form 214 for the period of 24 May 2002 to 30 January 2010 upon completion of required active service.

g. On 4 February 2022 Navy Personnel Command notified Petitioner that per 10 USC § 14506, Navy Reserve lieutenant commanders who are not on the promotion list to commander shall be transferred to the Retired Reserve, if qualified, or be honorably discharged on the first day of the month following two failures of selection for promotion and completion of 20 years of commissioned service. A review of Petitioner's record revealed that he had failed of selection for promotion at least twice and will complete 20 years of commissioned service in May 2022 and, therefore, are subject to this provision. Accordingly, unless authorized continuation, Petitioner's honorable discharge will be required on 1 June 2022.

h. On 12 May 2022 Navy Personnel Command notified Petitioner that per 10 USC Chapters 1407 and 1409 and FY-21/22 Navy Reserve Officer Retention and Continuation Plan, Petitioner was authorized continuation in an active status of the Navy Reserve until 1 June 2023.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2)¹, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Petitioner's anniversary year was erroneously continued through his U.S. Naval Academy service as 4 June 1997. Petitioner's anniversary date was established as an administrative error and Petitioner's satisfactory participation record was

¹ Enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that Petitioner requested a continuation, which was approved until 1 June 2023. Petitioner has until 1 June 2023 to obtain an additional year of qualifying service towards retirement. This Additional qualifying year would give him 18 years of qualifying service and an opportunity to be placed in Reserve sanctuary. PERS-912 does not have the authority to reallocate points and authority exists within PERS-9 to provide Petitioner with an opportunity to complete the total qualifying years needed to earn a non-regular retirement.

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based on this date. The Service made the appropriate administrative correction of the anniversary date. The Board concluded it was an injustice for the Petitioner's participation record be negatively impacted by the correction, and that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner completed all training and administrative requirements to include 50 points for the anniversary year ending 23 May 2014. Note: to accomplish this, points must be transferred from previous or subsequent anniversary year as appropriate.

Petitioner completed all training and administrative requirements to include 50 points for the anniversary year ending 23 May 2015. Note: to accomplish this, points must be transferred from previous or subsequent anniversary year as appropriate.

Petitioner completed all training and administrative requirements to include 50 points for the anniversary year ending 23 May 2018. Note: to accomplish this, points must be transferred from previous or subsequent anniversary year as appropriate.

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.

7/23/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]