



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

■
Docket No. 2850-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC RET

Ref: (a) Title 10 U.S.C. § 1552
(b) MARADMIN 135/19 of 4 Mar 19

Encl: (1) DD Form 149 w/attachments
(2) HQMC memo 1900 MMSR-4 of 2 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 Petitioner's retirement status from the Permanent Disability Retired List (PDRL) to the Temporary Early Retirement Authority (TERA).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 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. Petitioner was honorably released from active duty from Initial Active Duty for Training (IADT) and was issued a DD Form 214 for the period of 23 July 2002 to 8 March 2003 upon completion of required active service.

c. Petitioner was honorably released from active duty and was issued a DD Form 214 for the period of 7 September 2003 to 25 June 2004 upon completion of required active service.

d. Petitioner was honorably released from active duty and was issued a DD Form 214 for the period of 1 June 2006 to 31 May 2007 upon completion of required active service.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
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e. On 23 September 2017, Petitioner reenlisted for 5 years with an End of Current Contract (ECC) of 22 September 2022 and End of Active Service (EAS) of 22 September 2023.

f. In accordance with reference (b), retirement with at least 20 years of service continues to be the standard retirement entitlement for those who complete a career in the Military Services. The Marine Corps is authorized to offer voluntary early retirement under certain criteria to Active Component (AC) and Active Reserve (AR) Marines with more than 15 and less than 20 years active duty. This authority extends through 31 December 2025 unless sooner rescinded.

TERA in conjunction with waiving Physical Evaluation Board (PEB) findings. Marines being considered for disability separation or retirement must complete the PEB process with a finding of "unfit", have more than 15 but less than 20 years active service, and be willing to waive the PEB findings in order to apply for TERA. Marines approved for early retirement in these cases must have a retirement date that occurs within the timeframe that a disability separation or retirement is expected to occur. Marines disapproved for TERA in conjunction with PEB findings will be required to execute their disability separation as directed by the PEB.

Submit TERA requests by Administrative Action (AA) form via the chain of command to Manpower Management Separation and Retirement (MMSR-2). Applications must include chain of command endorsement through the first general officer, with the exception of requesting TERA in conjunction with waiving PEB findings which requires endorsement at the O-5 command level. Requests for retirement must be submitted no later than four months prior to the Planned Detachment Date (PDD) for ample processing time; this does not apply to TERA requests in conjunction with waiving PEB findings.

g. Petitioner was honorably released from active duty and was issued a DD Form 214 for the period of 27 July 2008 to 30 May 2020 for Disability, Permanent, Integrated Disability Evaluation System (IDES).

h. On 3 June 2021, Commandant of the Marine Corps notified Petitioner that the Secretary of the Navy has authorized his physical disability retirement per PEB Index M22000210 of 30 March 2020. At 2359 on 30 May 2020, Petitioner was transferred to the PDRL with a disability rating of 40 percent, non-combat related, in accordance with Title 10, United States Code, Section 1201.

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 was notified of his options by his PEB Liaison Officer including his eligibility to waive his PEB findings and submitting a request for retirement under the Temporary Early Retirement Authority. However, due to several factors

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outside of his control, his request was not processed in time and he was transferred to the PDRL as directed by the PEB on 30 May 2020. Had his request been received and staffed appropriately, his request would have been approved.

RECOMMENDATION

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

Upon approval of Petitioner's PEB findings, and in coordination with Petitioner's command, Petitioner waived his PEB findings and routed an Administrative Action (AA) Form, to the Commandant of the Marine Corps requesting to retire under the TERA with an effective date of 31 May 2020. The Service approved Petitioner's request to retire under the TERA with an effective date of 31 May 2020, and Petitioner effected his retirement on this same date.

Note: HQMC will issue a new DD Form 214, and Defense Finance and Accounting Service (DFAS) will complete an audit of Petitioner's records to determine if Petitioner is due any back 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.

7/23/2022

