



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

[REDACTED]
Docket No. 2880-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USNR RET,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7B Chapter 1

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 Retired pay was calculated based on Final Pay vice the High 3 base amount and a minimum of 214 points be awarded.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 25 August 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. In accordance with reference (b), the DIEMS determines whether the retired pay base is the monthly basic pay of the member just before retirement or an average of the highest 36 months of basic pay applicable during the member's career. For members who first entered military service before 8 September 1980, the retired pay base is generally the final basic monthly pay that the member received upon the date of retirement. For members who entered the military service on or after 8 September 1980, the retired pay base is generally the average of the highest three years (36 months) of monthly basic pay to which the member received for any 36 months of active service whether those months are consecutive or not.

c. On 14 August 1977, Petitioner was enrolled in the [REDACTED] Preparatory School for a period of 9 months; however he was dropped for voluntary reasons.

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d. Petitioner was discharged with an Honorable character of service and was issued a DD Form 214 for the period of 14 August 1977 to 28 February 1978. Narrative reason for separation is unknown.

e. On 5 April 1983, Petitioner reenlisted in the U.S. Naval Reserve for 6 years in pay grade E-5 with an EAOS of 4 April 1989. Petitioner previously military service upon enlistment/reenlistment listed 6 months and 15 days of total active military service and 2 days of total inactive military service.

f. Petitioner was discharged with an Honorable character of service and was issued a DD Form 214 for the period of 22 July 1983 to 17 November 1983. Narrative reason for separation was to accept commission as officer USN/USNR.

g. On 18 November 1983, Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/20) in the active U.S. Naval Reserve as an Ensign with a day of rank 18 November 1983 with a designator code of 1185 (Unrestricted Line Officer who is in training for Special Warfare qualification).

h. On 31 August 1987, Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/20) in the inactive U.S. Naval Reserve as an Ensign with a day of rank 11 July 1987 with a designator code of 1955 (An Unrestricted Line Officer under instruction as a prospective Judge Advocate General's Corps officer).

i. Petitioner was released from active duty with an Honorable character of service and was issued a DD Form 214 for the period of 1 October 1987 to 30 June 1992. Narrative reason for separation was Petitioner's request for extension of service was denied.

j. On 17 July 2003, Commanding Officer, Naval Reserve Personnel Center notified Petitioner that he completed all requirements to receive retired pay at age 60 under the provision of Title 10 U.S.C. § 1223 and BUPERSINST 1001.39D.

k. On 3 December 2003, Petitioner's Statement of Service listed an inactive period of USNR (Enlisted) from 23 November 1976 to 13 August 1977, and an active period of USNR (Enlisted) from 14 August 1977 to 28 February 1978.

l. On 28 April 2004, Commanding Officer, Naval Reserve Personnel Center notified Petitioner that the Secretary of the Navy approved Petitioner's request and authorized his transfer to Retired Reserve status effective 1 March 2004.

m. On 4 October 2019, Commander, Navy Personnel Command notified Petitioner that the Secretary of the Navy approved his application for retired pay for non-regular service. Petitioner's initial date of eligibility for retired pay was 11 July 2019. Therefore, Petitioner's request to receive retired pay was authorized effective 11 July 2019. Furthermore, the computation of Petitioner's retired pay will be based on 21 years, 2 months, and 2 days of qualifying service, 3,160 retirement points, and a pay entry base date of 27 December 1981.

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n. On 12 November 2019, Defense Finance and Accounting Service (DFAS) notified Petitioner that since he entered the military after 7 September 1980, Petitioner's retired pay was the average of the 36 months basic pay prior to his retirement date.

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 per Petitioner's Statement of Service, Petitioner initially signed his contract on 23 November 1976 and per reference (b), his retired pay base is generally the final basic monthly pay that he received upon the date of retirement. The Board concluded that it could not determine if the requested 214 additional reserve points is appropriate.

RECOMMENDATION

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

Petitioner's DIEMS is "23 November 1976" vice "5 April 1983."

Note: DFAS will complete an audit of Petitioner's records to determine if Petitioner is due any back pay.

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.

9/9/2022

[REDACTED]