



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

[REDACTED]
Docket No. 3135-22
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7A, Chapter 2
(c) OPNAVINST 1160.8A of 30 Jan 07

Encl: (1) DD Form 149 w/attachments
(2) CMSB memo 1160 Ser B328/047 of 5 May 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 he is entitled to the full Selective Reenlistment Bonus (SRB) awarded for his reenlistment dated 3 October 2017.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 May 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 6 October 2004, Petitioner entered active duty.

c. On 3 October 2017, Petitioner reenlisted for 4 years with an EAOS of 2 October 2021. Furthermore, Petitioner was eligible for a zone "C" SRB with an award level of 6.5 for the SO/5326 rate/NEC and received initial SRB payment of 39,864.82.

d. On 17 April 2018, Findings of the Physical Evaluation Board Proceedings found Petitioner unfit and recommend he be placed on the Temporary Disability Retired List with a combined disability rating of 60%. Furthermore, the disability was the direct result of a combat related injury as defined by Title 26 U.S. Code Section 104(b)(3). The board finds further that the

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disability was incurred in the line of duty as a direct result of armed conflict while engaged in extra hazardous service.

e. On 23 July 2018, Petitioner was honorably transferred to the Temporary Disability Retired List due to Disability, Temporary.

f. On 16 September 2018, Department of Veterans Affairs notified Petitioner that this letter is a summary of benefits he currently receives from the Department of Veterans Affairs (VA). They provided this letter to disabled Veterans to use in applying for benefits such as state or local property or vehicle tax relief, civil service preference, to obtain housing entitlements, free or reduced state park annual memberships, or any other program or entitlement in which verification of VA benefits is required. This letter is considered an official record of your VA entitlement. Furthermore, Petitioner's combined service-connected evaluation is: 100%.

g. On 29 September 2021, Commander, Navy Personnel Command notified Petitioner that in accordance with the provisions of Title 10, U. S. Code, Section 1210, the Secretary of the Navy has determined that the disability for which he was placed on the Temporary Disability Retired List (TDRL) had stabilized and that his disability is now permanent and rated at Forty (40) percent disabling. Accordingly, Petitioner will be placed on the Permanent Disability Retired List by reason of a permanent physical disability effective 24 July 2021 in the grade of E-7. Disability has been determined to be due to hazardous service. Disability has been determined to have been incurred due to armed conflict in a combat zone.

h. 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 transferred to the TDRL as the result of disability incurred in the line of duty in a combat zone. In accordance with references (b)¹ and (c)², SRB payments already paid will stand and recoupment and any unpaid portion of the bonus will be paid to the member upon separation.

¹ Reference (b), If a member under a written agreement for a pay or benefit incurs an injury or illness, through no misconduct of the member, that precludes the member from fulfilling the service conditions specified in the written agreement and the member is separated or retired for disability under 10 U.S.C., Chapter 61 then repayment of the unearned portion of the pay or benefit will not be sought and if such separation or retirement is for a disability incurred in the line of duty in a combat zone designated by the President of the United States or the Secretary of Defense, or in a combat-related operation designated by the Secretary of Defense, and/or involves a combat related disability as defined in 10 U.S.C. § 1413a(e) any unpaid portion of the bonus, special pay, or student loan repayment under 10 U.S.C. or 37 U.S.C. will be paid to the member upon separation.

² Reference (c), If a member becomes ineligible for an SRB for any of the reasons below, payments will stop, but recoupment of payments already received will not be required: (1) Disability, injury, or illness not the result of misconduct or willful neglect, or not incurred during a period of unauthorized absence. The remaining SRB balance will be paid as a lump sum as part of the settlement of the member's final military pay account for Members who are separated, discharged, or transferred to the Temporary Disability Retired List or Permanent Disability Retired List as determined by a Physical Evaluation Board.

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RECOMMENDATION

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

Upon Petitioner's separation, Petitioner was paid any unpaid portion of the SRB.

Note: Defense Finance and Accounting Service (DFAS) will complete an audit of Petitioner's records to determine if Petitioner is due any back pay.

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.

6/7/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]