



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

■  
Docket No. 3400-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MBR ■■■■■■■■■■, USN,  
XXX-XX-■■■■■

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149 w/attachments  
(2) OCNO memo 7220 Ser N130C3/22U1247, 10 Aug 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 show Petitioner was in a duty status from 6 August 2017 to 17 April 2018, and was only charged leave for leave taken on 5 August 2017.

2. The Board, consisting of ■■■■■■■■■■, ■■■■■■■■■■, and ■■■■■■■■■■ reviewed Petitioner's allegations of error and injustice on 31 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. On 6 August 2013, Petitioner entered active duty for 4 years with an End of Active Obligated Service (EAOS) of 5 August 2017.

c. On 24 July 2017, Petitioner was issued official separation orders (■■■■■■■■■■) while stationed in ■■■■■■■■■■ with an effective date of departure of July 2017. Petitioner's place elected for travel was ■■■■■■■■■■ with an effective date of separation 5 August 2017.

d. On 31 July 2017, Petitioner submitted Leave Request/Authorization (NAVCOMPT Form 3065) requesting separation/retirement leave from 16:00 4 August 2017 to 23:59 5 August 2017. Petitioner's request was approved on 31 July 2017. Petitioner was charged leave for 5 August 2017.

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e. Petitioner was released from active duty and transferred to the Navy Reserve with an Honorable character of service and was issued a DD Form 214 for the period of 6 August 2013 to 5 August 2017 upon completion of required active service.

f. On 31 January 2018, Petitioner received Non-Judicial Punishment (NJP) for violation of Uniform Code of Military Justice Article 111. Punishment awarded forfeiture of \$819.00, pay per month (PPM) times 2 months (Suspend for 6 months). Reduce in grade to E-1, and 60 days restriction.

g. On 14 February 2018, Petitioner was issued and signed an Administrative Remarks (NAVPERS 1070/613) for the following: Member being held involuntarily beyond normal expiration of obligated service awaiting trial by court-martial. Members for whom tacit consent to retention is assumed ordinarily will not be retained in excess of 6 months beyond the date of their normal EAOS. Further retention may be authorized in meritorious cases upon proper recommendation accompanied by the supporting facts.

h. On 11 April 2018, Petitioner was issued official modification to separation orders ([REDACTED]) while stationed in [REDACTED] with an effective date of departure of July 2017. Petitioner's place elected for travel was [REDACTED] with an effective date of separation 16 April 2018.

i. On 17 April 2018, Petitioner was issued a Correction to DD Form 214, Certificate of Release or Discharge from active duty (DD Form 215) with the following corrections: block 12 b (Separation date this period) is 17 April 2018, block 12c (Net active service this period) is 4 years, 8 months, and 12 days, block 16 (Days accrued leave paid) is 28.5, and block 28 (Narrative reason for separation) is Non-retention on active duty.

j. On 17 May 2018, Petitioner's Master Military Pay Account (MMPA) listed leave taken for the period of 5 August 2017 to 17 April 2018 (256 days).

k. On 18 June 2018, Defense Finance & Accounting Service (DFAS) notified Petitioner of his indebtedness to the U.S. Government. This correspondence was regarding account number CLQ5F26PD. Petitioner's debt was due to leave Petitioner took from 5 August 2017 to 17 April 2018 resulting in a negative leave balance of -243.5 days which include non-accrual of -19 days. Petitioner's debt was \$26,070.07.

l. On 26 January 2021, DFAS notified Petitioner that upon review of his account, they have determined his debt in the principal amount of \$26,070.07, remains valid. DFAS added interest, penalty, and administrative fees totaling \$76.16. Their office has received collection from The Department of Treasury Offset Program (TOP), totaling \$571.73, bringing Petitioner's balance due to \$25,574.50. Since Petitioner's account is at the Private Collection Agency (PCA), Conserve, (CON) they may have added additional fees in accordance with the contract with the Department of Treasury.

Your debt, of \$26,070.07 is due to Military leave Petitioner took from 5 August 2017 thru 17 April 2018 resulting in a Negative Leave balance of minus 243.5 days, which includes a non-

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accrual of minus 19 days. Petitioner is not entitled to Pay and Allowances during periods of Negative Leave.

## 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 it is evident that the amount of leave stated as taken prior to separation on Petitioner's LES and debt letter is inaccurate as he would have been required to be out of a leave status for legal proceedings and executing the 60 days of restriction awards at NJP on 13 January 2018. Furthermore, Petitioner's DD-215 dated 17 April 2018 reflects Petitioner being paid for 28.5 days of accrued leave at the time of separation, and the amount of days corresponds with leave entitlement for active duty members. Additionally, on 4 August 2017, Petitioner was authorized annual leave from 1630, 4 August 2017 to 2359, 5 August 2017, and was charged 1-day of annual leave against his annual leave balance. The Board determined that Petitioner will be credited leave for the period of 6 August 2017 to 10 April 2018. Due to Petitioner selling leave at separation, the Board agreed that the period of 11 April 2018 to 17 April 2018 will be credited, as appropriate, once Petitioner settles his final travel.

## RECOMMENDATION

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

Petitioner was not charged leave from 6 August 2017 to 10 April 2018. Note: DFAS will complete an audit of Petitioner's records to determine if Petitioner is due any back pay.

Petitioner's official modification to separation orders ([REDACTED]) issued on 11 April 2018 listed an effective date of separation of 17 April 2018 vice 16 April 2018. Note: upon settlement of Petitioner's travel claim, remaining leave will be credited 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

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corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

9/13/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]