



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

[REDACTED]
Docket No. 4083-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MEMBER [REDACTED],
USNR, [REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1001.39F

Encl: (1) DD Form 149 w/attachments
(2) NPC ltr 5730 PERS-91 undated
(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 eligibility to transfer to Retired Reserve.

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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

- a. On 1 March 1991, Petitioner enlisted in the Naval Reserve for a term of 8 years; establishing an anniversary end date of 28 February.
- b. On 23 January 2003, Petitioner discharged from the Navy Reserve.
- c. On 30 January 2003, Petitioner enlisted in the Naval Reserve for a term of 6 years in pay grade E-4. The record reflects the Service did not reset Petitioner's anniversary date to account for break-in-service.
- d. On 8 January 2015, Petitioner reenlisted for a term of 2 years and discharged in pay grade E-5 on 7 January 2017; his expiration of obligated service (EOS).

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

e. Petitioner's 60TH birthday was on [REDACTED].

f. On 19 October 2019, Navy Personnel Command (PERS-912) notified Petitioner his request to transfer to the Retired Reserve with pay was denied because he had not completed 20 years of qualifying service.

g. On 12 January 2022, Petitioner issued a Statement of Service indicating he discharged on 7 January 2017 with 19 years, 10 months, and 8 days of qualifying service. Additionally, Petitioner earned 71 total points from 29 February 2016 through 7 January 2017, but did not receive a qualifying year of service because of discharge prior to the end of the established anniversary year.

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 had Petitioner received clear and timely counseling on the requirement to complete the anniversary year to obtain the qualifying year of service to retire in accordance with reference (b)², he would have executed an extension vice discharging at his EOS. Although Petitioner did not complete the proper administrative requirements, the Board felt that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner's 8 January 2015 reenlistment for a term of 2 years was extended for 1-month—new EOS 7 February 2017. Note: This change will authorize Petitioner to complete service through anniversary year ending 29 January 2017 and earn a qualifying year of service.

Petitioner transferred to the Retired Reserve without pay effective 1 February 2017 vice discharged on 7 January 2017.

Petitioner transferred to the Retired Reserve with pay effective 13 May 2017.

¹ 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. PERS-912 corrected Petitioner's Statement of Service on 14 June 2022 to reflect break-in-service on 23 January 2003 and reentry on 30 January 2003 with the new anniversary end date of 29 January. This correction resulted in Petitioner earning 72 total points and 19 years, 11 months and 8 days of qualifying service.

² Reference (b), a member who has a break in service that occurs during an anniversary year may be credited with a partial year of qualifying service for non-regular retirement. When, as a result of a break in service, a partial year occurs, the Service Member must meet the minimum retirement point requirement set forth in the instruction. A partial qualifying year is any period less than 12 full months in which the retirement points credited to a member, when computed proportionally to 12 months, are equal or greater than 50 points.

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

That no further changes be made to Petitioner's naval record.

That a copy of this report of proceedings 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.

7/12/2022

