



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

██████████
Docket No. 5456-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████ ██████████, USNR
XXX-XX-██████████ (RET)

Ref: (a) 10 U.S.C. § 1552
(b) 10 U.S.C. § 12731
(c) 10 U.S.C. § 12732
(d) 10 U.S.C. § 12733

Encl: (1) DD Form 149 w/attachments
(2) Application for Enlistment, NAVPERS 708, 16 Mar 65
(3) DD Form 214, 18 Dec 66
(4) Officer Appointment, 19 Dec 66
(5) DD Form 214, 3 Nov 69
(6) Statement of Service, 28 Feb 23
(7) Promotion Certificate, 3 May 78
(8) Permanent Appointment, 17 Nov 84
(9) CNP ltr 1920 PERS-911, 27 May 94
(10) NRPC ltr 1820 25:rw:HON1, 19 Aug 94
(11) Advisory Opinion by NPC, 7 Mar 23

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 20 total years of qualifying service (TYQS) and transfer to the Retired Reserve with pay.

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's application on 16 March 2023. The names and votes of the panel members will be furnished upon request. Petitioner allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, to include references (b)¹ through (d).

¹ Reference (b), prior to the National Defense Authorization Act of 2008, members must have completed 20 years of qualifying service to be eligible for non-regular service retired pay at age 60. The last 6 years of such qualifying service must be in a Reserve Component for members who have earned 20 or more years of qualifying service on or before 25 April 2005.

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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 29 March 1965, Petitioner enlisted in the United States Navy for a term of 4 years and discharged on 18 December 1966 to accept a Reserve Officer Appointment on active duty as an Ensign/O-1 on 19 December 1966. Enclosures (2) through (4).

b. On 3 November 1969, Petitioner released from active duty and transferred to the Navy Reserve in the paygrade of Lieutenant Junior Grade/O-2. Enclosure (5).

c. Petitioner failed to earn points/qualifying years of service for anniversary years ending 18 December 1975 and 18 December 1976. On 19 December 1976, Petitioner transferred to the Inactive Status List (ISL) and at the time of transfer, he earned nine TYQS. Petitioner's Counsel contends Petitioner "performed missionary service for his church" from 1974 until 1982." Enclosures (1) and (6).

d. On 3 May 1978, Petitioner is retroactively promoted to Lieutenant/O-3 effective 1 October 1969. Enclosure (7).

e. On 17 November 1982, Petitioner transferred from the ISL to a drilling status. Enclosure (6).

f. On 17 November 1984, Petitioner receives a permanent appointment to Lieutenant Commander/O-4 effective 1 November 1984. Enclosure (8).

g. On anniversary year ending on 16 November 1990, Petitioner earned a total of 76 points and 17 years, 8 months and 20 days TYQS. The following anniversary year ending 16 November 1991, Petitioner earned 35 points resulting in an un-qualifying year of service. Enclosure (6).

h. On 27 May 1994, Petitioner issued notification of his status in the Naval Reserve. Specifically, Petitioner was reminded of his authorization to be retained in an active status in the Naval Reserve until he earned at least 20 years of qualifying service or until 30 June 1994, whichever occurred first. At this time, Petitioner had 19 years, 8 months, and 20 days TYQS and earned 3282 points. Enclosures (6) and (9).

i. On 19 August 1994, Petitioner issued Retirement Order and Transfer Authorization to the Retired Reserve and Honorary Placement on the Retired Reserve List effective 1 July 1994. Enclosure (10).

j. On 7 March 2023, Navy Personnel Command (PERS-9) provide a favorable advisory opinion recommending "15 points be moved from anniversary year 1989-1990 to 1990-1991, awarding him 50 points for that anniversary year. This move would enable him to reach 20

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Years of Qualifying Service, be issued Notice of Eligibility, and afforded the opportunity to retire.” Enclosure (11).

MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Majority concluded Petitioner’s request warrants favorable action and substantially concurred with the comments contained in enclosure (11). In this regard, the Majority determined Petitioner consistently displayed active participation while in a drilling status and even exceeded the maximum 60 inactive point limitation for 11 anniversary years, equaling 472 points which could not be credited towards retirement in accordance with references (c) and (d).² Therefore, the Majority agreed, under these circumstances, relief is warranted.

MAJORITY RECOMMENDATION

In view of the foregoing, the Board Majority recommends the following corrective action:

Petitioner’s anniversary year ending 16 November 1990 reflects earning “61” vice “76” total points and anniversary year ending 16 November 1991 reflects earning “50” points vice “35” points. Note: This change will result in Petitioner earning “20 years, 8 months and 20 days” vice “19 years, 8 months, and 20 days” for anniversary year ending 16 November 1993.

Petitioner was authorized transfer to the “Retired Reserve without pay” vice “Retired Reserve and Honorary Placement on the Retired Reserve List” effective 1 July 1994.

Petitioner was authorized transfer to the Retired Reserve with pay effective 8 April 2005. Note: Petitioner must contact Navy Personnel Command (PERS-912) at 1-833-330-6622 to complete the application process for retired pay.

That a copy of this report of proceedings be filed in Petitioner’s naval record.

MINORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Minority concluded Petitioner’s request does not warrant favorable action, despite the comments contained in enclosure (11). The Minority determined that prior to Petitioner’s transfer from an active status, he was provided sufficient notifications of his impending separation from the Naval Reserve, but did not pursue a resolution. Additionally, the Minority noted that Petitioner waited over 28 years to seek relief after being properly notified per enclosure (9) and (10) that he was being placed on the Retired Reserve List effective 1 July 1994 and would not be eligible for non-regular service retired pay benefits at age 60, since he had not completed 20 total years of qualifying service.

² Reference (c), required members to earn a minimum of 50 points per anniversary year to establish a total years of qualifying service (TYQS) but only a maximum of 60 inactive points per year could be credited to the anniversary year prior to 23 September 1996 per reference (d).

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Therefore, the Minority concluded that relief is not warranted and Petitioner should not be credited points for an anniversary year he did not complete.

MINORITY RECOMMENDATION

In view of the foregoing, the Board Minority recommends that no corrective action be taken on 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. The foregoing action of the Board is submitted for your review and action.

4/3/2023

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Majority Recommendation (Grant Relief)

Reviewed and Approved Board Minority Recommendation (Deny Relief)

4/21/2023

[REDACTED]

Assistant General Counsel (M&RA)

[REDACTED]