



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

[REDACTED]
Docket No. 5933-22
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]
[REDACTED] USMCR

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1900.16 of 26 Nov 13

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 was transferred to the Retired Reserve awaiting pay at age 60.

2. The Board, consisting of [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 1 September 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 8 September 1999, Petitioner enlisted in the U.S. Marine Corps Reserve for 8 years with an Expiration Obligated Service (EOS) of 7 September 2007.

c. On 19 October 1999, Petitioner entered active duty for 4 years with an End of Current Contract (ECC) of 18 October 2003.

d. Petitioner was released from active duty and transferred to the Naval Reserve with an Honorable character of service and was issued a DD Form 214 for the period of 19 October 1999 to 18 October 2003 upon completion of required active service.

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e. On 5 May 2007, Petitioner signed an agreement to extend enlistment for 12 months with a Reserve ECC of 7 September 2008.

f. On 2 June 2008, Petitioner reenlisted for 3 years with a Reserve ECC of 1 June 2011.

g. On 21 May 2011, Petitioner reenlisted for 4 years with a Reserve ECC of 20 May 2015.

h. In accordance with reference (b), (Application For Transfer To The Retired Reserve Awaiting Pay At Age 60) submission of Requests: Requests for voluntary retirement will be submitted by the reporting command via the unit diary system per DoDI 1310.02 OnLine MCTFSPRIUM. Requests outside the 4 to 14 month submission timeframe must be submitted via separate correspondence to the CMC (MMSR-5) with justification and command endorsements. Per Title 5 U.S.C. section 8301, the effective date of retirement must be the first day of the month and cannot be later than the first day of the month following mandatory removal dates. Approval/disapproval of all requests will be issued by the CMC (MMSR-5) via unit diary.

i. On 15 May 2015, Petitioner reenlisted for 4 years with an Reserve ECC of 14 May 2019.

j. On 7 May 2019, Petitioner reenlisted for 2 years with an Reserve ECC of 6 May 2021.

k. On 19 September 2019, Commandant of the Marine Corps notified Petitioner that Petitioner received a Notification of Entitlement to Retired Pay at Age 60 a review of his record indicated that he was eligible to receive Reserve Retired Pay at age 60, and make an election under the RCSBP.

This notification was not transferring Petitioner to a retired status. Petitioner must request a retirement status in accordance with paragraph 3016 of MCO 1900.16. Failure to request retirement would result in Petitioner's separation from the Marine Corps at the expiration of his contract if not extended. Should Petitioner's contract expire and he becomes separated, this notification will entitle him to retired pay at age 60 as a former member.

l. On 7 January 2020, Commandant of the Marine Corps notified Petitioner that on 27 September 2019, Petitioner was sent a Notification of Entitlement to Retired Pay at Age 60 and Eligibility to Participate in the Reserve Component Survivor Benefit Plan (RCSBP). As of today's date they had not received a response from Petitioner.

m. On 1 April 2020, Petitioner was promoted to Master Sergeant/E-8.

n. On 5 April 2021, Operational Sponsor, [REDACTED] Expeditionary Force notified Director, Marine Forces Reserve that Petitioner's request for transfer to the Individual Ready Reserve was approved effective 31 March 2021.

o. On 22 April 2021, Petitioner signed an agreement to extend enlistment for 3 months with an end of contract of 6 August 2021. On 26 July 2021, Petitioner signed an agreement to extend enlistment for 3 months with an end of contract of 6 November 2021. On 5 November 2021,

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Petitioner signed an agreement to extend enlistment for 3 months with an end of contract of 6 February 2022.

p. On 3 February 2022, Petitioner's Careerist Reserve Extension request was submitted, and was disapproved by HQMC on 7 February 2022.

q. On 6 February 2022, Petitioner was discharged at the end of his contract.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of reference (b) and enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board determined that Petitioner completed over 20 years of qualifying service, however, he did not submit a request to transfer to the Retired Reserve Awaiting Pay at Age 60 prior to the end of his contract and subsequent discharge. The Board concluded that Petitioner's failure to request transfer should not prevent his placement in the Retired Reserve.

RECOMMENDATION

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

The record of discharge from the U.S. Marine Corps Reserve effective 6 February 2022, is rescinded.

Petitioner submitted an application for transfer to the retired reserve awaiting pay at age 60 effective 31 January 2022 in a timely manner, and was approved by cognizant authority, with a retirement date of 1 February 2022.

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.

9/19/2022

[REDACTED]

Deputy Director

[REDACTED]