



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

[REDACTED]  
Docket No. 6021-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] [REDACTED]  
XXX XX [REDACTED] RET

Ref: (a) Title 10 U.S.C. § 1552  
(b) Petitioner's Official Military Personnel File  
(c) Board for Correction of Naval Records ltr RJO 1485-18 of 1 Apr 2019  
(d) Defense Finance and Accounting Service guidance re: Combat Related Special Compensation, retrieved from <https://www.dfas.mil/retiredmilitary/disability/crsc/>

Encl: (1) DD Form 149 w/attachments

1. Pursuant to the provisions of the reference, 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 by changing the effective date of his Combat Related Special Compensation (CRSC) from its current effective date of 1 February 2014 to 1 January 2008.

2. The Board, consisting of [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 30 March 2023 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 and references, relevant portions of naval records, 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. According to reference (b), Petitioner enlisted in the Marine Corps and commenced a period of active duty in the Marine Corps on 14 May 1984. On 1 May 1996, a medical board referred Petitioner to the Physical Evaluation Board (PEB) for asthma and labile hypertension. On 3 July 1996, he was found unfit for continued naval service by the PEB due to his asthma condition, which was rated at 10%. On 30 September 1996, the Petitioner was discharged due to a physical disability with severance pay at 10%.

c. According to reference (c), on 29 April 1996, the Department of Veterans Affairs (VA) issued a new disability rating for Petitioner's asthma condition. Based on a revision to the Pulmonary VASRD diagnostic codes, Petitioner's asthma VA rating for Asthma was increased from 30% to 100% effective 7 October 1996, which was seven days after his discharge from the Marine Corps.

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d. In 2018, the Petitioner filed a petition with this Board seeking to have his record changed to be placed on the PDRL. Reference (c). As discussed in reference (c), in connection with reviewing the petition, Director, Secretary of the Navy Council of Review Boards (CORB) provided an advisory opinion stating that, while the PEB accurately rated Petitioner's condition at the time of his discharge, based on the 1996 change in the pulmonary VASRD code, the Petitioner would have received a 100% disability rating from the PEB had the change occurred seven days prior. Thus, based on this fact, he recommended the Board consider granting relief as a matter of equity. On 1 April 2019, the Board concurred with the advisory opinion that the PEB did not commit an error in the case. However, in order to correct an injustice, the Board determined Petitioner's disability rating should be retroactively changed to 100% vice 10% based on the 1996 change to the pulmonary VASRD code and he should be placed on the Permanent Disability Retirement List effective the date he was originally discharged.

e. The Petitioner thereafter sought CRSC for his medical condition. His request was initially denied, but, on 2 May 2022, the CORB reconsidered the Petitioner's request for Combat Related Special Compensation, finding that his application date was January 2020 and the retroactive date of granting CRSC would be February 2014. Enclosure (1).

f. In his current petition, the Petitioner contends that his CRSC effective date should be 1 January 2008 vice 1 February 2014, amended, because legislation passed by Congress shows that being a chapter 31 Medical Retiree at 100% Disability, with a retirement date of October 1, 1996, and also being granted 100% CRSC on May 3, 2022, his effective date should be 1 January 2008 instead of 1 February 2014.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting relief. Specifically, upon review of reference (d), the Board concluded that the Petitioner's retroactive date for his CRSC should be 1 January 2008. According to reference (d), "[a]ll retroactive pay [for CRSC] is limited to six years from the date the VA awarded compensation for each disability." In Petitioner's case, it appears the CORB granted retroactive payment to six years from the grant of CRSC, and not from the date the VA awarded compensation for this disability, which was 7 October 1996. Reference (c). Thus, according to reference (d), because the Petitioner is a retiree with fewer than 20 years of active duty, his retroactive pay is limited to 1 January 2008.

## RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner's record shall be corrected to reflect that the effective date of retroactive pay for his CRSC purposes is 1 January 2008.

The Defense Finance and Accounting Service (DFAS) shall conduct an audit of Petitioner's pay and it is authorized to pay any monies that are lawfully found to be due as a result of the above correction to Subject's naval record.

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That no other changes be made to Petitioner's 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 Regulation, 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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

4/11/2023

[REDACTED]  
Executive Director  
[REDACTED]