



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

[REDACTED]
Docket No. 6910-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
[REDACTED] (RET)

Ref: (a) Title 10 U.S.C. § 1552
(b) DOD 7000.14-R FMR Volume 7A Chapter 26
(d) The Joint Travel Regulation (JTR) of 1 Dec 20

Encl: (1) DD Form 149 w/attachments
(2) Advisory opinion by NPC (PERS-8), 21 Oct 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 received overseas housing allowance from 19 July 2022 through 30 September 2022 and that Transient Processing Unit (TPU) be added to retirement orders as a temporary additional duty to authorize roundtrip back to [REDACTED].

2. The Board, consisting of [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 February 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, 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. In accordance with reference (b), retirement or separation from a Permanent Duty Station (PDS) outside the United States and establishes residence outside the United States, a service member at a PDS outside the United States, who is processing for retirement or separation or on leave after processing, and who intends to establish a residence in an OHA-based area after retirement or separation, is eligible for OHA. To be paid OHA under any of the circumstances listed, the Service member must provide a lease and a completed and approved 2367.

If the Service member continues to occupy private sector leased or owned housing at or in the PDS vicinity, OHA continues until the date of separation or retirement.

c. In accordance with reference (c), Standard Transportation. Unless otherwise directed, a Service member traveling to, from, or between a location OCONUS is authorized the following: 1. Standard PCS allowances from the old PDS, via any TDY locations, to the appropriate aerial or water port of

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embarkation. 2. Reimbursement for transportation procured at personal expense for the transoceanic travel if Government or Government-provided transportation is unavailable. 3. Standard PCS allowances from the appropriate aerial or water port of debarkation, via any TDY locations, to the new PDS. 4. Standard PCS allowances between official points when there is no transoceanic travel and only land travel is involved.

A Service member must actually travel to the appropriate location to be eligible for travel and transportation allowances in this section when any of the following occur: "...C. Transfer to the Fleet Reserve or to the Fleet Marine Corps Reserve. D. Retirement..."

d. On 16 December 2016, Petitioner transferred from ██████████, and arrived to ██████████ on 3 January 2017 for duty.

e. On 7 April 2021, Commander, Navy Personnel Command notified Petitioner via Chief of Staff, Joint Warfare Centre and USA Senior DoD Country Representative in ██████████ that Petitioner's request for retention on active duty in a retired status, his letter of 4 November 2020, has been approved until 31 July 2022. The decision to approve Petitioner's request was made after carefully reviewing current billet requirements and concluding that an immediate need exists for Petitioner's expertise.

Please note that Title 10, Section 688 authorizes the Navy to temporarily order retired officers to active duty. While Title 10, Section 690 and Title 10, Section 688a provides exemptions/exclusions for certain Health Care professionals, Chaplains, Attaches, etc., reference Title 10, Section 688a places limits on non-exclusionary officers to "not more than 25". Pursuant to the President's Executive Order declaring a "National Emergency," the quota limit has been lifted. However, if the President's Executive Order is not continued, non-exclusionary officers, over the limit of 25, who are in a retired but retained status, may be curtailed to the first day of the fourth month following the month of the President's rescension.

f. On 15 October 2021, Petitioner was issued official retirement orders (BUPERS order: 2881) while stationed in ██████████ with an effective date of departure of July 2022. Furthermore, "In view of your scheduled retirement to be effective 1 August 2021. On 1 August 2021, you will be transferred to the retired list with grade of CDR and with retired pay of CDR, pursuant to provisions of 10 U. S. C. Sec. 633. Upon being placed on the retired list you are hereby retained on active duty in a retired status until 31 July 2022".

g. On 18 November 2021, Petitioner notified Commander, Navy Personnel Command, PERS-8353 via Deputy Commander and Chief of Staff, NATO Joint Warfare Centre that he respectfully requested to be re-considered for retention in a retired status. As per refs (a) through (c), the following information is submitted: (1) The officer's release from active duty: 1 August 2022. Period of time being requested: 1 August 2022 to 1 August 2024 or until national presidential COVID-19 emergency ends, whichever comes first. (2) Justification and reason for request: Petitioner has been an integral part of the advisory team supporting the Air Domain in executing the JWC mission. Due to a robust 2022-2024 Plan of Work schedule supporting 6 major exercises, Petitioner's seasoned experience and knowledge of NATO, JWC and Air operations will be critical to ensuring that there is adequate AIR SME advisory team experience within the command in the latter half of 2022 and through 2024. Further, Petitioner's son would also like to finish up 11th and 12th grade in the same high school.

h. On 9 July 2022, Petitioner signed an administrative remarks (NAPVERS 1070/613) for the following: Petitioner selected select ██████████ as HOS for his retirement. Petitioner understood designating a home of selection prior to household goods shipment and/ or transportation of dependents is required.

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Petitioner further understood if he defers his home of selection, he will remit the entire cost of shipment of household goods and/ or dependents in the event Fleet Reserve or retirement authorization is canceled.

i. On 18 July 2022, [REDACTED] Travel Itinerary was issued to Petitioner for travel on 18 July 2022 from [REDACTED] to [REDACTED]. Total amount was [REDACTED].

j. On 19 July 2022, Petitioner arrived to [REDACTED]

k. On 19 July 2022, Commander, Navy Personnel Command notified Petitioner via Deputy Commander and Chief of Staff, NATO Joint Warfare Centre that Petitioner's request for retention on active duty in a retired status, his letter of 18 November 2021, has been approved until 30 September 2022. The decision to approve Petitioner's request was made after carefully reviewing current billet requirements and concluding that an immediate need exists for Petitioner's expertise.

l. On 26 July 2022, [REDACTED] issued Petitioner a duplicate invoice for a flight on 28 July 2022 from [REDACTED] to [REDACTED] for a total of \$ [REDACTED]

m. On 7 September 2022, Petitioner was issued official cancellation to change duty orders (BUPERS order: 2881).

n. On 9 September 2022, Petitioner was issued official retirement orders (BUPERS order: 2522) while stationed in [REDACTED] with an effective date of departure of September 2022. Furthermore, "In view of your scheduled retirement to be effective 1 August 2021. On 1 August 2021, you will be transferred to the retired list with grade of CDR and with retired pay of CDR, pursuant to provisions of 10 U. S . C. Sec. 633. Upon being placed on the retired list you are hereby retained on active duty in a retired status until 30 September 2022".

o. Petitioner was retired with an Honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 15 July 1992 to 30 September 2022 due to maximum service or time in grade.

p. In correspondence attached as 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.

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 on 18 November 2021, Petitioner requested to be re-considered for retention in a retired status. On 19 July 2022 Petitioner arrived to [REDACTED] and was then notified that his request to be retained on active duty had been approved. Petitioner returned to [REDACTED] on 28 July 2022 and on 9 September 2022, Petitioner was issued official cancellation to change duty orders (BUPERS order: 2522). Due to administrative oversight by PERS-835, Petitioner was required to out process in [REDACTED] in accordance with BUPERS order: 2881 pending approval of another retire/retain through September 2022. The late approval of Petitioner's request, cancellation of BUPERS order:2881, and the issuance of official retirement orders (BUPERS order: 2522) resulted in financial hardship and out of pocket expenses for Petitioner.

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RECOMMENDATION

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

Petitioner was issued official cancellation to change duty orders (BUPERS order: 2881) on 16 July 2022 vice 7 September 2022.

Petitioner was issued a Temporary Additional Duty (TEMADD) Travel Orders (NAVPERS 1320/16) on 17 July 2022 effective 18 July 2022 for 11 days to [REDACTED] for separation processing. Estimated date of return was 28 July 2022.

Petitioner was issued official retirement orders (BUPERS order: 2522) on 9 September 2022, while stationed in [REDACTED]" vice "[REDACTED]" with an effective date of departure of September 2022. Petitioner was to proceed to home of selection.

Note: Petitioner will submit a supplemental travel claim with all required documents to include a copy of this letter through appropriate administrative channels for reimbursement. Settlement of claim is chargeable to the line of accounting on the Petitioner's BUPERS order: 2522.

Petitioner was authorized OHA at the with-dependent rate for [REDACTED] until 30 September 2022 or dependents departure whichever is earlier.

Note: Defense Finance and Accounting Service will complete an audit of Petitioner's records to determine if Petitioner is due any back pay and allowances.

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.

2/17/2023

[REDACTED]
Deputy Director
[REDACTED]