



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

██████████  
Docket No. 8720-23  
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552  
(b) Title 10 U.S.C. § 1372  
(c) DoD 7000.14-R FMR, Volume 7A, Chapter 68  
(d) ALNAV 045/22, 8 Jul 22

Encl: (1) DD Form 149 w/attachments  
(2) DD Form 214, Certificate of Release or Discharge from Active Duty, 1 Feb 18  
(3) NAVPERS 1000/4, Officer Appointment Acceptance and Oath of Office, 2 Feb 18  
(4) History of Assignments  
(5) Petitioner's ltr, Subject: Request for Separation Based on Medical Condition(s) Not Amounting to a Disability, 22 Feb 19  
(6) CO, ██████████ ltr 1920 Ser Code 00/014, 24 Apr 19  
(7) Member Data Summary  
(8) ██████████ ltr 1920 BUPERS-00B/394, 14 Sep 20  
(9) BUPERS Order ██████████, 13 Oct 20  
(10) Navy Lodge ██████████, Non-Availability Lodging Form, 21 Oct 20  
(11) Navy Lodge ██████████, Non-Availability Lodging Form, 5 Nov 20  
(12) BUPERS Order ██████████ (Modification), 17 Nov 20  
(13) BUPERS Order ██████████ (Cancellation), 19 Nov 20  
(14) Hotel ██████████, Invoice, 10 Dec 20  
(15) MMPA Screen  
(16) BUPERS Order ██████████ 7 Dec 20  
(17) Travel Voucher Summary (DO Voucher No. A78107)  
(18) Personnel Office, ██████████ email, 18 Aug 21  
(19) BUPERS Order ██████████ 8 Feb 22  
(20) NPPSC 7220/5, Temporary Lodging Allowance (TLA) Worksheet, 14 Feb 22  
(21) BUPERS Order ██████████ of 18 Mar 22  
(22) BUPERS Order ██████████ (Modification), 11 May 22  
(23) DD Form 214, Certificate of Release or Discharge from Active Duty, 4 Oct 23  
(24) Travel Voucher Summary (DO Voucher No. A61460)  
(25) Advisory Opinion by CO, NPPSC memo, 24 Apr 23  
(26) Advisory Opinion by Office of Legal Counsel (PERS-00J), 14 Jul 23  
(27) Petitioner's rebuttal to PERS-00J Advisory Opinion, 20 Jul 23  
(28) Advisory Opinion by Office of Legal Counsel (PERS-00J), 3 Aug 23  
(29) DD Form 214, Certificate of Release or Discharge from Active Duty, 10 Oct 23

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(30) Advisory Opinion by Navy Personnel Command (PERS-80B) email, 23 Oct 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 show his DD Form 214, Certificate of Release or Discharge from Active Duty was updated to include all awards and ribbons earned as reflected in his naval record, rank listed as LT vice LTJG, and receive all back pay and allowances as a result of these corrections. Furthermore, that he be reimbursed for Temporary Lodging Allowance (TLA).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 October 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Petitioner was discharged with an honorable character of service and was issued a DD Form 214 for the period of 28 October 2017 to 1 February 2018 in order to accept commission in same branch of service. See enclosure (2).

b. On 2 February 2018, Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVPERS 1000/4) in the active Navy as an Ensign with a day of rank 2 February 2018 with a designator code of 1160 (Unrestricted Line Officer billet for an officer in training for Surface Warfare qualification). See enclosure (3).

c. On 6 April 2018, Petitioner transferred from [REDACTED], and arrived to [REDACTED] on 20 April 2018 for duty. See enclosure (4).

d. On 22 February 2019, Petitioner notified Assistant Secretary of the Navy (ASN), Manpower and Reserve Affairs (M&RA) via Commanding Officer (CO), [REDACTED] and Commander, [REDACTED] that Per MILPERSMAN 1900-120 that he requests separation based on the medical condition for which his attending physician believes to exist, but does not amount to a disability per current Navy guidance. The medical condition is Chronic Adjustment Disorder due to a trauma experienced with intense depression and anxiety symptoms and is supported by the copy of medical officer evaluation and medical evaluation board endorsement. See enclosure (5).

e. On 24 April 2019, CO, [REDACTED] notified Commander, Navy Personnel Command (NPC) (PERS-834) via Petitioner, CO, [REDACTED], and Commander, [REDACTED] that Per MILPERSMAN 1611-010 and MILPERSMAN 1900-120, this request for Administrative Separation in the case of Petitioner is forwarded for review and action. Petitioner was diagnosed with F43.23 - Adjustment Disorder with mixed anxiety and depressed mood. Following a mental health episode while underway in July 2016, the CO had Petitioner medically evaluated. The CO then placed him in a temporary duty status that assigned him to a shore-based command in [REDACTED] to ensure he could meet the requirements of the treatment plan

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administered by his health care provider. During this time, the CO endorsed his unqualified request to resign to NPC. On 16 January 2019, the CO received notification that Petitioner's resignation request was disapproved due to the fact that he had not met the minimum tour to separate or initial minimum service requirements. The CO again offered him the opportunity to renew his journey to qualify as a Surface Warfare Officer, to which he declined. Separately, the CO processed Petitioner for non-attainment from the Surface Warfare community. He is unable to fulfill his obligations as a naval officer.<sup>1</sup> See enclosure (6).

f. On 2 February 2020, Petitioner was appointed to Lieutenant Junior Grade/O-2. See enclosure (7).

g. On 14 September 2020, Deputy Chief of Naval Personnel notified ASN (M&RA) that Petitioner is an unrestricted line officer (surface warfare-in training) with 2 years, 2 months of commissioned service and 2 years, 5 months of total active duty service as of 1 April 2020. Pre-deployment and post-deployment health assessments and medical screenings for Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI) were not required, however Petitioner subsequently was diagnosed with PTSD due to a previous incident.

[Enclosure (6)] is a report of substandard performance in the case of Petitioner, requesting his administrative separation due to a condition not amounting to a physical disability. Specifically, on 19 July 2018, Petitioner was diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood. He exhibited symptoms of depression, anxiety and suicidal ideation that were directly related to an inability to adjust to military service. In his statement, he acknowledged that he was unable to finish his service. Petitioner was recommended for separation based solely on his health and welfare. In a response to Petitioner's promotion withhold, CO, [REDACTED] also described Petitioner's failure to complete a required course of instruction by not completing his surface warfare qualification.

Petitioner was directed to arrange an appointment with a qualified PTSD/TBI military psychiatrist to determine a diagnosis of any ratable condition. A separate doctor diagnosed him with PTSD and determined that his condition may have contributed to his substandard performance. Recommendation: Separate Petitioner from the naval service with an honorable characterization of service, separation code JFV (condition, not a disability). Recoup community managed bonuses, as applicable. Approved by Principal Deputy ASN (M&RA), Performing the Duties of ASN (M&RA) on 16 September 2020.

See enclosure (8).

h. On 13 October 2020, Petitioner was issued official separation orders (BUPERS Order: [REDACTED]) while stationed in [REDACTED] with an effective date of departure of November 2020. "The Secretary of the Navy has approved your separation from the Navy. The

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<sup>1</sup> In accordance with reference MILPERSMAN 1920-190, Petitioner demonstrated and acknowledged that his current mental health condition is not conducive to continued Naval Service and submitted a resignation from active duty for an Honorable Discharge from the Naval Service. After fully reviewing the facts and opinions of this case, the following administrative actions are requested or recommended: I do not request Petitioner be detached for cause. I request Petitioner be administratively separated with an Honorable characters of service. Petitioner has not been found guilty of any violations of the Uniform Code of Military Justice and recommendation for separation is based solely on the health and welfare of the individual concerned.

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characterization of your service will be honorable and the separation program designator code will be JFV.” See enclosure (9).

i. On 21 October 2020, Navy Lodge [REDACTED] issued Petitioner an unsigned non-availability lodging form for the period of 28 October 2020 for 10 nights. See enclosure (10).

j. On 5 November 2020, Navy Lodge [REDACTED] issued Petitioner a signed non-availability lodging form for the period of 28 October 2020 for 30 nights. See enclosure (11).

k. On 17 November 2020, Petitioner was issued official modification to separation orders (BUPERS Order: [REDACTED]) with an effective date of departure of December 2020. On 19 November 2020, Petitioner was issued official cancellation of orders (BUPERS Order: [REDACTED]). See enclosures (12) and (13).

l. On 10 December 2020, Hotel [REDACTED] issued Petitioner 5 invoices for the periods of 28-31 October 2020 (4 nights), 1-4 November 2020 (4 nights), 5-23 November 2020 (19 nights), 24-30 November 2020 (7 nights), and 1-12 December 2020 (12 nights). See enclosure (14).

m. On 12 December 2020, Petitioner’s Overseas Housing Allowance entitlement stopped. See enclosure (15).

n. On 7 December 2020, Petitioner was issued official change duty orders (BUPERS Order: [REDACTED]) while stationed in [REDACTED] with an effective date of departure of December 2020. Petitioner’s ultimate activity was [REDACTED] for limited duty with an effective date of arrival of December 2020 with a projected rotation date of June 2021. See enclosure (16).

o. On 13 December 2020, Petitioner transferred from [REDACTED] and arrived to [REDACTED] on 13 December 2020 for duty. See enclosure (4).

p. On 18 March 2021, Travel Voucher Summary (DO Voucher No. A78107) was issued and paid on 8 April 2021 for the period of 12 December 2020 to 13 December 2020 (Start Date: 12 December 2020/End date: 22 December 2020). Advances/Prior Payments: \$0.00, Total Entitlement/Total Charged to Acct. Class/Total Amount Payable/Due Employee: \$3,286.46. See enclosure (17).

q. On 18 August 2021, Personnel Office, [REDACTED] notified Petitioner “Got it.” The ITs are moving the LAN back to the ship and computer will be down for about 10 days. [Personnel Office] will get with CNFJ and see what's needed to get your TLA approved. [Personnel Office] don't see an issue about the approval, only want to ran through you first prior to taking away your Overseas Housing Allowance. See enclosure (18)

r. On 8 February 2022, Petitioner was issued official retirement orders (BUPERS Order: [REDACTED]) while stationed in [REDACTED] with an effective date of departure of April 2022. On 28 April 2022, Petitioner will be transferred to the Temporary Disability Retired List (TDRL) (070) with grade LTJG and with retired pay (O-2), pursuant to provisions of 10 U.S.C. Section 1202. Proceed to home of selection. Regard relieved of all active duty effective at 2400 on date of detachment. Reporting senior directed to detach Petitioner in time to proceed and report on 27 April 2022 at following station. See enclosure (19).

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s. On 14 February 2022, Petitioner signed a TLA Worksheet (NPPSC 7220/5) for arrival TLA of 13 December 2020 and for departure TLA of 28 October 2020. See enclosure (20).

t. On 18 March 2022, Petitioner was issued official modification to retirement orders (BUPERS Order: [REDACTED]) while stationed in [REDACTED] with an effective date of departure of June 2022. Proceed to home of selection. Regard relieved of all active duty effective at 2400 on date of detachment. Reporting senior directed to detach Petitioner in time to proceed and report on 28 June 2022 at following station. On 11 May 2022, Petitioner was issued official modification to retirement orders (BUPERS Order: [REDACTED]) with an effective date of departure of July 2022 and directed to detach Petitioner in time to proceed and report on 30 July 2022 at following station. See enclosures (21) and (22).

u. On 28 June 2022, Petitioner transferred from [REDACTED] and arrived to [REDACTED] on 28 June 2022 for IDT. See enclosure (4).

v. Petitioner was transferred to the TDRL with an honorable character of service and was issued a DD Form 214 for the period of 28 October 2017 [2 February 2018] to 31 July 2022 due to Disability, Temporary.<sup>2</sup> See enclosures (23) and (29).

w. On 24 August 2022, Travel Voucher Summary (DO Voucher No. A61460) was issued and paid on 22 August 2022 for the period of 2 August 2022 to 2 August 2022 (start date: 2 August 2022 and end date: 2 August 2022). Advances/Prior Payments: \$0.00, Total Entitlement/Total Charged to Acct. Class/Total Amount Payable/Due Employee: \$369.75. See enclosure (24).

x. On 24 April 2023, CO, Navy Pay and Personnel Support Center (NPPSC) notified the Board that NPPSC will correct Petitioner's DD Form 214 (separation date and awards), and submit a Defense Workload Operations Web System ticket for 10 days of departure TLA and to receive back pay for the period of 29 June to 31 July 2023. See enclosure (25).

y. On 14 July 2023, Office of Legal Counsel (PERS-00J) notified the Board that Petitioner's request for DD Form 214 corrections, "back-pay, and TLA pay (10 days only, pending submission of departure TLA extension approval) have already been granted by NPPSC. Therefore, no official action by the Board is needed at this time. Further, the Petitioner's request for a rank update should be denied. See enclosure (26).

z. On 20 July 2023, Petitioner submitted a rebuttal to PERS-00J stating that during the period of 28 October through 12 December 2020, Petitioner fully complied with the orders of a superior officer (Executive Officer (XO)). Petitioner submitted all the documents to Petty officer second class [REDACTED] (administrative specialist), who was instructed by the XO to fill out and submit the TLA requests. Petitioner repeatedly provided receipts to admin and filled out every form requested. Petitioner stayed in constant communication with both parties. Petitioner had at this point in 2020 moved out of his housing and there was no place else to stay. During this time the COVID outbreak kept the Navy Lodge in [REDACTED] restricted for quarantine, and his ship was either in quarantine or not in port. Therefore, following orders and remaining in the required off base housing was the only available

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<sup>2</sup> Petitioner's DD Form 214 block 12b (separation date this period) reflects 31 July 2022, however Petitioner's History of Assignments page reflects a date of loss (RET) of 28 June 2022, and Petitioner's June 2022 Leave and Earnings Statement reflects an Expiration Term of Service (ETS) of 28 June 2022.

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option. Petitioner was never informed of any non-processing of any TLA extension, even after repeatedly asking authorities who had firsthand knowledge with all such TLA requests. Petitioner was repeatedly told during this period by superior offices and by direction, administrative specialists, that all TLA paperwork and had been complete.

Additionally, Petitioner, in late 2021 and again in 2022 contacted PERS- 80B. He was informed of the promotion timeline via phone call. He requested it be written and received via email on 2 February 2022 by [REDACTED] Director, PERS – 80B, NPC that stated because these [NADMIN promotions] messages are prepared two months in advance of the authorized promotion month, he doesn't expect Petitioner's name to appear on the monthly promotion NAVADMIN message until May or June 2022. This NAVADMIN message will also authorize his promotion effective the first day of the month following the date you reach two years' time in grade as LTJG. This effective date should be 1 March 2022 and you will be back paid as appropriate to this date.

See enclosure (27).

aa. On 3 August 2023, Office of Legal Counsel (PERS-00J) notified the Board that the Board has the discretion to approve the TLA over 10 days as a matter of equity. Petitioner has provided a series of emails documenting his repeated attempts to recover TLA. While Petitioner has not provided a TLA extension approval, the record submitted indicates his efforts to recover for TLA appear to have been in good faith through his discussions of TLA with various pay personnel as well as his inclusion of the appropriate certificates of non-availability. At this time, Petitioner may not recover for TLA in excess of 10 days, unless he provides documentation of TLA extension approval.

Additionally, Petitioner was selected for promotion to Lieutenant as announced via the ALNAV 045/22. However, the promotion was not effective prior to Petitioner's separation because he was not promoted via NAVADMIN as required by reference SECNAVINST 1420.3. A promotion NAVAMDIN had been released prior to Petitioner's separation, however the NAVADMIN failed to include or promote Petitioner. Petitioner was selected for promotion to Lieutenant and thus should be granted the promotion to Lieutenant. There is no indicator in the record presented that Petitioner would not have promoted had he not been placed on the TDRL. Thus, under paragraph (3) of Title 10 U.S.C. § 1372, Petitioner is entitled to the permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired, to wit: the grade of Lieutenant. Absent proof to the contrary, the presumption of regularity as to official acts governs this situation, namely that the actions taken were correct and proper. While Petitioner was separated in accordance with Navy policy, the unique exception created by Title 10 U.S.C. § 1372 allows for Petitioner to be promoted to Lieutenant because he was selected for promotion and would have promoted if not for his placement on the TDRL. Lastly, the Petitioner's request for a "Rank Update" should be granted for the aforementioned reasons. The Petitioner has provided sufficient evidence to demonstrate a material error occurred.

See enclosure (28).

ab. On 10 October 2023, Petitioner was issued a corrected DD Form 214 for the period of 2 February 2018 to 31 July 2022. See enclosure (29).

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ac. On 23 October 2023, NPC (PERS-80B) notified the Board that “I think [Petitioner’s] effective date of rank for Lieutenant should be 1 March 2022. He was selected by the FY-22 AD LT AFQOL #2 conducted in Dec 2021 after his promotion to LTJG was authorized by PERS-833 letter on 7 July 2021 with 2 February 2020 effective date of rank. Had [Petitioner] not been placed on the TDRL, a NAVADMIN message would have been released in October or November authorizing his promotion to lieutenant effective 1 March 2022.” See enclosure (30).

## CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of references (b) and (c) and enclosures (28) and (30), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that in accordance with reference (b), any member of an armed force who is retired for physical disability under section 1201 or 1204 of this title, or whose name is placed on the TDRL under section 1202 or 1205 of this title, is entitled to the permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired and which was found to exist as a result of a physical examination. Petitioner was selected for promotion to Lieutenant prior to his transfer to the TDRL and in accordance with enclosures (28) and (30), Petitioner should be advanced to Lieutenant/O-3 effective 1 March 2022, and his DD Form 214 issued on 10 October 2023 will be updated to reflect this change, as well as all awards or ribbons he has earned as reflected in his naval record.

Additionally, the Board noted that Petitioner’s DD Form 214 block 12b (separation date this period) as 31 July 2022, however Petitioner’s History of Assignments page reflects a date of loss (RET) of 28 June 2022, and Petitioner’s June 2022 Leave and Earnings Statement reflects an Expiration Term of Service (ETS) of 28 June 2022. Furthermore, NPPSC has submitted a Defense Workload Operations Web System ticket for 10 days of departure TLA and to receive back pay for the period of 29 June to 31 July 2023. Finally, in accordance with reference (c), when the authorized TLA period has begun and actual departure is delayed through no fault of the Service member, TLA may be authorized or approved by the Outside the Continental United States TLA Authority’s Authorizing Official in increments of 10 or fewer days, for the entire period temporary lodging as required. While Petitioner has not provided a TLA extension approval, the Board determined that his efforts to recover TLA were in good faith through numerous discussions of TLA with various pay personnel and his XO as well as his inclusion of the appropriate certificates of non-availability. Therefore, the Board granted approval of TLA extension for the entire period in question.

## RECOMMENDATION

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

Petitioner was appointed to Lieutenant with the date of rank and effective date of 1 March 2022.

Petitioner’s DD Form 214 executed on 10 October 2023 with a separation date of 31 July 2022 listed block 4a (Grade, Rate or Rank) “LT” vice “LTJG”, block 4b (Pay grade) “O-3” vice “O-2”, and block 12i (Effective date of pay grade) “1 March 2022” vice “2 February 2020.” Note: That any other entries affected by the Board’s recommendation be corrected, as well as all Decorations, Medals, Badges, Citations and Campaign Ribbons awarded or authorized.

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Petitioner submitted a request for reimbursement of TLA for the period of 28 October 2020 through 12 December 2020 (46 nights), and was approved by cognizant authority. Note: Petitioner must submit a request for reimbursement of TLA, receipts, BUPERS Order [REDACTED] and a copy of this Board's decision letter to Defense Finance Accounting Service (DFAS).

Note: Petitioner's DD Form 214 block 12b (separation date this period) reflects 31 July 2022, however Petitioner's History of Assignments page reflects a date of loss (RET) of 28 June 2022, and Petitioner's June 2022 Leave and Earnings Statement reflects an Expiration Term of Service (ETS) of 28 June 2022. Thus, NPC and DFAS will conduct an audit to ensure Petitioner's pay and allowances are correct based on Petitioner's separation date.

Note: DFAS 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.

11/15/2023

