



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

[REDACTED]  
Docket No. 9476-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,  
XXX-XX-[REDACTED] (RET)

Ref: (a) Title 10 U.S.C. § 1552  
(b) Public Law 102-484 section 4403, 23 Oct 92  
(c) DoDI 1340.19, 17 Nov 93  
(d) NAVADMIN 240/94, 19 Dec 94

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 received service credit from Public and Community Service (PACS) program.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 31 January 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 Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 28 April 1980 to 21 May 1987 for immediate reenlistment.

b. Petitioner was discharged with an honorable character of service and was issued a DD Form 214 for the period of 22 May 1987 to 23 January 1996 for weight control failure.

c. On 18 February 1997 Petitioner was issued a DD Form 215, correction to his DD Form 214 with the following correction: Transferred to Fleet Reserve under temporary early retirement authority effective 1 February 1996.

d. Effective 1 May 2010 the Commander, Navy Personnel Command notified Petitioner that under Title 10, U.S. Code, Section 6331, upon his completion of 30 years of active/inactive duty service or otherwise meeting eligibility requirements, the Secretary of the Navy authorized Petitioner's transfer to the Retired List of the Regular Navy/Navy Reserve. Per MILPERSMAN 1820-010, they transferred Petitioner to the Retired List effective the date indicated below.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN, XXX-XX-[REDACTED] (RET)

e. On 19 April 2022 Petitioner turned 62 years old.

f. On 30 September 2022 the [REDACTED], [REDACTED], [REDACTED] notified Petitioner that this letter is to confirm that Petitioner's state hire date is 27 July 1996 as a Correctional Officer. Petitioner transferred to [REDACTED] on 9 September 1996 from the Academy. Petitioner transferred to [REDACTED] on 1 January 2001 as Correctional Counsellor I and separated from [REDACTED] on 31 December 2001 due to rejection on probation. Petitioner transferred to [REDACTED] on 1 January 2002 as a Correctional Officer. Petitioner disability retired on 14 May 2006 as Correctional Officer in [REDACTED].

## CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of references (b),<sup>1</sup> (c),<sup>2</sup> and (d)<sup>3</sup> and enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Petitioner was initially discharged for weight control failure on 23 January 1996. On 18 February 1997, Petitioner was issued a correction to DD Form 214, Certificate of release or discharge from active duty with the following correction: Transferred to Fleet Reserve under Temporary Early Retirement Authority effective 1 February 1996. The Board

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<sup>1</sup> Reference (b), section 4403 (Temporary Early Retirement Authority). The purpose of this section is to provide the Secretary of Defense a temporary additional force management tool with which to effect the drawdown of military forces through 1995. During the active force drawdown period, the Secretary of the Navy may— (A) apply the provisions of section 6323 of title 10, United States Code, to an officer with at least 15 but less than 20 years of service by substituting "at least 15 years" for "at least 20 years" in subsection (a) of that section. Additional Eligibility Requirement. In order to be eligible for retirement by reason of the authority provided in sub-section (b), a member of the Armed Forces shall— (1) register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 4462(a); and (2) receive information regarding public and community service job opportunities from the Secretary of Defense or another source approved by the Secretary and be afforded, on request, counseling on such job opportunities. Section 4464 (Increased Early Retirement Retired Pay for Public or community service). (a) Re-computation of Retired Pay.—(1) If a member or former member of the Armed Forces retired under section 4403(a) or any other provision of law authorizing retirement from the Armed Forces (other than for disability) before the completion of at least 20 years of active duty service (as computed under the applicable provision of law) is employed by a public service or community service organization listed on the registry maintained under section 1143a(c) of title 10, United States Code (as added by section 4462(a)), within the period of the member's enhanced retirement qualification period, the member's or former member's retired or retainer pay shall be recomputed effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age.

<sup>2</sup> Reference (c), during retirement processing, the Military Services shall provide each retiree a copy of DD Form 2676, "Validation of Public or Community Service Employment," and explain the reporting requirements and procedures for enhanced retirement credit as described in this Instruction.

<sup>3</sup> Reference (d), implemented the FY 96 enlisted TERA and applies to all active duty USN sailors regardless of duty station. (In this NAVADMIN, the term "retirement" means "transfer to the fleet reserve."). TERA is one of several tools used to mold the Navy's manpower force for the future. The Navy's personnel drawdown has produced positive results-near-term fleet readiness and long-term force quality are being maintained. These positive results now allow a more selective use of TERA. TERA offers early retirement (at a reduced monthly payment rate) to eligible servicemembers with 15-20 years active service but TERA is not an entitlement and not all who apply will be automatically approved. Eligibility requirements for TERA. AE in paygrades 5 and 6 with 15 to 20 Years of Service (YOS) were eligible. Applications for FY 96 TERA (for the period of 1 October 1995 to 30 September 1996) will be accepted from the DTG of this message until 18 February 1995. Priority for approval will be given to members who request a retirement date of 31 October 1995. All other TERA requests will be held until the application deadline. All TERA retirees are required by Public Law to register for PACS but they are not required to accept employment. PACS registration can be accomplished at the nearest military transition site usually the family service center. Those who accept PACS employment after military retirement can earn credit for up to 20-year retirement pay but only for the period between their separation date and the date 20 YOS would normally have been reached. Members who begin PACS employment on the day following their retirement date will earn the maximum retirement credit, which starts to be paid at age 62. The National PACS Registry will contain jobs in the following categories: education, law enforcement, public health care, social services, public safety emergency relief, public housing, conservation, and environment.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN, XXX-XX-[REDACTED] (RET)

determined that due to Petitioner's retroactive temporary early retirement program (TERA) retirement, he was not able to register for PACS as required prior to retirement. Petitioner was employed with [REDACTED], which is listed on DMDC PACS master roster, therefore, he should be given credit for his employment, and his retirement pay should be recalculated accordingly.

#### RECOMMENDATION

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

Petitioner requested PACS registration and it was approved prior to effective date of early retirement under TERA on 1 February 1996.

Petitioner became employed under the conditions specified in subsection 3.1 (DODI 1340.19), obtained certification of employment from the employing organization, and submitted a completed DD Form 2676 as follows; at the beginning of his qualifying periods of employment, at the end of his qualifying periods of employment, or the end of the enhanced retirement qualification period (whichever came first), and annually during a qualifying period of employment on the anniversary of the date of retirement.

Note: Navy Personnel Command will provide Defense Finance and Accounting Service (DFAS) with the date that Petitioner would have reached 20 years of service. DFAS will complete an audit of Petitioner's records to determine time credited for the period of 27 July 1996 to 14 May 2006 or until Petitioner would have reached 20 years of service, and re-compute military retired pay and the SBP base amount. Furthermore, 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.

2/7/2023

