



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

■  
Docket No. 956-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] [REDACTED]  
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) DoDI 1332.46 (TERA for Service Members) of 21 Dec 18  
(c) MARADMIN 135/19 (Marine Corps TERA Program) of 4 Mar 19

Encl: (1) DD Form 149 w/attachments  
(2) Advisory opinion by HQMC (MMSR-4), 17 Mar 23  
(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 was removed from the Temporary Disability Retired List (TDRL) and retired under the Temporary Retirement Authority (TERA).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 3 May 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. On 15 May 2006, Petitioner entered active duty.

b. On 1 October 2016, Petitioner was promoted to Staff Sergeant/E-6.

c. In accordance with reference (b), Disability Considerations. (1) A Service member who accepts an offer to retire under the TERA and is later found to be unfit for duty as a result of a disability will not be forced to separate with disability severance pay. He or she will be allowed to retire under the TERA in accordance with the offer tendered. (2) Service members who are pending disability separation and who are eligible for a TERA retirement at the time of their disability evaluation may elect to be separated for disability or retired for length of service.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]

However, when the TERA retirement is elected, the Service member's retirement date must occur within the time frame that a disability retirement is expected to occur.

d. In accordance with reference (c), retirement with at least 20 years of service continues to be the standard retirement entitlement for those who complete a career in the Military Services. Early retirement serves as an additional force management tool to meet the needs of the Marine Corps and approval of TERA requests remains an exception to policy governing the regular retirement of service members in MCO 1900.16 W/CH 1. The Marine Corps is authorized to offer voluntary early retirement under certain criteria to Active Component (AC) and Active Reserve (AR) Marines with more than 15 and less than 20 years active duty. This authority extends through 31 December 2025 unless sooner rescinded.

TERA in conjunction with waiving Physical Evaluation Board (PEB) findings. Marines being considered for disability separation or retirement must complete the PEB process with a finding of "unfit", have more than 15 but less than 20 years active service, and be willing to waive the PEB findings in order to apply for TERA. Marines approved for early retirement in these cases must have a retirement date that occurs within the timeframe that a disability separation or retirement is expected to occur. Marines disapproved for TERA in conjunction with PEB findings will be required to execute their disability separation as directed by the PEB.

Submit TERA requests by Administrative Action (AA) form via the chain of command to Manpower Management Separation and Retirement (MMSR-2) per MCO 1900.16 W/CH 1.

e. On 15 May 2021, Petitioner completed 15 years of active service.

f. On 8 February 2022, a PEB found Petitioner unfit and recommended he be placed on the Temporary Disability Retirement list with 40% combined disability rating. Additionally, Petitioner's disability was a direct result of a combat related injury as defined by Title 26 U.S. code Section 104(b) (3). Furthermore, the disability was incurred in the line of duty as a direct result of armed conflict.

g. Petitioner was temporarily 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 May 2006 to 29 April 2022 due to Disability, Temporary, Integrated Disability Evaluation System.

## 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 Petitioner met all statutory and service requirements to have retired under the TERA. Petitioner's PEB Liaison Officer did not notify Petitioner of his options, including the eligibility to waive PEB findings and submit a request for retirement under the TERA. Had Petitioner applied for TERA, his application would have been approved.

Subj: REVIEW OF NAVAL RECORD ICC [REDACTED]

## RECOMMENDATION

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

Petitioner waived his PEB findings and submitted a TERA request by Administrative Action (AA) form via the chain of command to Manpower Management Separation and Retirement (MMSR-2) with a planned detachment date (30 April 2022) in a timely manner, and it was approved by cognizant authority.

Petitioner's DD Form 214 certified by an authorized official on 3 March 2022 listed block 12b (Separation date this period) "30 April 2022" vice "29 April 2022", and block 28 (Narrative reason for separation) "Early Retirement" vice "Disability, Temporary, IDES". Note: That any other entries affected by the Board's recommendation be corrected. Furthermore, Defense Finance and Accounting Service (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.

5/8/2023

