



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

██████████
Docket No. 1310-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████, USNR,
XXX-XX ██████████ (DECEASED)

Ref: (a) Title 10 U.S.C. § 1552
(b) MILPERSMAN 1820-030, 1 Dec 15
(c) Title 10 U.S.C. § 12731

Encl: (1) DD Form 149 w/attachments
(2) Advisory opinion by NPC (PERS-91), 17 Mar 23
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject's spouse, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that Subject's naval record be corrected to reinstate his retirement from the Navy Reserves.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 2 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 Subject'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 31 December 2014, Commander, Navy Personnel Command (PERS-912) notified Subject that Reserve Component Survivor Benefit Plan (RCSBP) election certificate dated 18 December 2014 was accepted.

b. On 13 September 2018, Navy Personnel Command notified Subject that per 10 U.S.C. chapters 1407 and 1409 and FY-17/18 Navy Reserve Officer Retention and Continuation Plan, Subject was authorized continuation in an active status of the Navy Reserve until 15 September 2019.

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When this period of continuation expires Subject's transfer from an active status will be required. Because Subject was qualified for a Reserve retirement, he may request Transfer to the Retired Reserve by completing retirement request form and returning it to PERS-9 i 1 in the envelope provided by 31 August 2019. Endorsement by his Navy Reserve Activity is not required; however, please provide them a copy of your request for their records.

The order-issuing authority is directed to remove Subject from his unit assignment and terminate any orders which may be in effect not later than 30 September 2019.

c. On 9 June 2019, Subject completed his last drill and received 2 points.

d. On 27 July 2019, Subject died.

e. On 2 October 2019, Commander, Navy Personnel Command (PERS-911) notified Commander, Navy Personnel Command (PERS-912) that per COMNAVPERSCOM letter 1920 PERS-911 of 13 September 2018, please transfer Subject to the Retired Reserve with an effective date of 1 October 2019.

f. On 15 October 2019, Commander, Navy Personnel Command (PERS-9) notified Subject that he was notified by COMNAVPERSCOM letter 1920 Pers-911 of 13 September 2018 of his status and available options. DoD FY Authorization Act 2002 authorizes the processing of retirement of eligible members without the member's request. As a request to update Subject's status had not been received, his transfer was effective 1 October 2019. DD FORM 363N is Subject's Certificate of Retirement.

g. On 19 November 2019, Commander, Navy Personnel Command (PERS-9) notified Subject that per the certificate of death of 31 July 2019, NAVPERSCOM letter of 13 September 2019 is canceled. Subject therefore will be retained as a member of the Navy Reserve.

h. On [REDACTED], Subject would have turned 60.

i. Navy Personnel Command notified Petitioner that this letter acknowledges her inquiry requesting information about survivor benefits based on Subject's military service.

Petitioner's completed RCSBP annuity claim based on the military service of her deceased spouse has been forwarded to the Defense Finance and Accounting Service (DFAS), 1240 East Ninth Street, Cleveland, OH 44199 for further processing.

Survivors of Retired Reservists may be eligible for medical benefits if the deceased member was already participating in the TRICARE Retired Reserve plan. If Subject was not covered by the TRICARE Retired Reserve plan Petitioner may elect to participate in the TRICARE Prime plan on the date of Subject's sixtieth birthday, [REDACTED].

j. On 14 April 2023, Navy Personnel Command issued a Statement of Service for Navy Reserve Retirement listed Subject completed 25 qualifying years of service with 3922 total retirement points creditable for pay.

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k. In the advisory opinion, 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 references (b)¹ and (c),² and enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that on 13 September 2018, Subject was authorized continuation in an active status of the Navy Reserve until 15 September 2019. Furthermore, Subject was informed that because he was eligible for transfer to the Retired Reserve, he could request to transfer to the retired Reserve by submitting the request to PERS-911 by 31 August 2019. However, Subject died on 27 July 2019. On 15 October 2019, PERS-9 notified Subject that as a request to update his status had not been received; PERS-9 was authorized to retire Subject without his request effective 1 October 2019. Once PERS-9 was informed of Subject's death, his transfer to the Retired Reserves was canceled. The Board agreed that Subject was retirement eligible when he died. If Subject had requested to transfer to the Retired Reserves prior to his death, it would have been approved and Petitioner would be eligible to request Tricare benefits upon Subject's 60th birthday. Therefore, the Board determined that in order to establish Petitioner's eligibility to apply for Tricare benefits, Subject will be transferred to the Retired Reserve effective 1 July 2019.

RECOMMENDATION

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

Subject submitted an application for transfer to the retired reserve awaiting pay at age 60, and was approved by cognizant authority effective 30 June 2019, with a retirement date of 1 July 2019.

A copy of this Report of Proceedings will be filed in Subject'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.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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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

[REDACTED]

Deputy Director

Signed by: [REDACTED]