



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

█
Docket No. 4043-23
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 █

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 37 U.S.C. § 501

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by OCNO memo 7220 Ser N130C3/23U0865, 12 Jul 23
(3) Advisory Opinion by HQMC memo 7200 RFF, 1 Jun 23
(4) 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 that Petitioner/s debt was cancelled, and the Marine Corps kept 55 days of leave or that Petitioner was credited 55 days of leave and was permitted to conduct a onetime sale of 65 days of leave.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 9 January 2024 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 29 September 2020, Commanding Officer, █ Marine Corps District notified Petitioner that, "Per JTR paragraph 5344, you have elected 0 day (s) of PDMRA, 0 day(s) of transition PTAD, and 0 day(s) of annual leave awaiting release from active duty at 2359, 3 October 2020. [Petitioner has] elected mileage, via Private Vehicle, to █, █. [Petitioner has] given your permanent mailing address/phone number as █, █. Upon release, after accounting for any terminal leave (if elected) and 55 days of leave to sell back, [Petitioner] remaining unused leave balance will be 0 days."

b. Petitioner was discharged with an honorable character of service and was issued a DD Form 214, Certificate of Release or Discharge from Active Duty for the period of 30 November 2010 to 3 October 2020 upon accepting commission or warrant in same branch of service. Furthermore, block 16 (Days accrued leave paid) listed 55 days.

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

c. 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 4 October 2020 to 28 January 2021 upon accepting commission or warrant in same branch of service.

d. On 29 January 2021, Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVPERS 1000/4) in the active U.S. Navy as an Ensign with a day of rank of 29 January 2021 with a designator code of 1390 (An Unrestricted Line Officer who is in training for duty involving flying as a pilot).

e. On 26 February 2021, Finance officer, [REDACTED], [REDACTED], [REDACTED] notified Petitioner that, "An audit of your final settlement from the U.S. Marine Corps was conducted by this office and revealed that [Petitioner was] overpaid \$5985.01. The overpayment was due to military leave [Petitioner] took from 3 October 2020 to 3 October 2020, which was not deducted, from your final leave settlement. [Petitioner was] paid for 55.0 days but were only due payment for 0.0 days."

f. 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 partial merit and warrants partial 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 partial corrective action. In accordance with reference (b),¹ payments may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant in any uniformed service. The Board concluded that the 55 days of leave should have been credited / transferred upon entering the Navy from the Marine Corps. Furthermore, Petitioner does not meet the criteria for special leave accrual, and he may not sell back more than 60 days of accrued leave in his career. Finally, the Board understands that the addition of 55 days of leave to Petitioner's leave account could result in a substantial amount of lost leave if Petitioner is unable to take it prior to 30 September 2023.

RECOMMENDATION

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

Petitioner's Marine Corps DD Form 214 ending on 3 October 2020 listed block 16 (Days Accrued Leave Paid) "0.0" vice "55.0" days.

Note: The Defense Finance and Accounting Service will reinstate 55.0 days to Petitioner's leave account effective 3 October 2020 and complete an audit of Petitioner's records to carry forward and adjust his account accordingly.

That a copy of this report of proceedings will be filed in Petitioner's naval record.

¹ Reference (b), Pay and Allowances of the Uniformed Services § 501. Payments for unused accrued leave. Payment may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant in any uniformed service.

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

That no further changes be made to 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.

1/16/2024

