



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

██████████  
Docket No. 5594-23  
Ref:

Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████, USN,  
XXX-XX-██████████

Ref: (a) Title 10 U.S.C.

- Encl:
- (1) DD Form 149 w/enclosures
  - (2) BUPERS-00J memo, subj: Advisory Opinion ICO [Petitioner], 9 September 2023
  - (3) ██████████ Commander memo, subj: Final Civil Action ICO [Petitioner], 7 April 2017
  - (4) Superior Court of the District of ██████████ Criminal No. ██████████,  
Community Service Deferred Sentencing Agreement
  - (5) PERS-834 memo, subj: Status in the Navy, 4 August 2017
  - (6) ██████████ Transcript
  - (7) Lateral Transfer and Redesignation Board Results
  - (8) Petitioner's memo, subj: Response to Advisory Opinion ICO [Petitioner], 23 October 2023

1. Pursuant to the provisions of reference (a) Section 1552, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board) requesting his naval record be corrected by taking the following action:

- a. Change Time in Service (TIS) start date from 26 October 2022 to 10 July 2020;
- b. Change O-1/Ensign Date of Rank (DOR) from 4 March 2021 to 10 July 2020;
- c. Change O-2/Lieutenant Junior Grade DOR from 4 March 2023 to 4 March 2021;
- d. Removal "17CSF Records" from Official Military Personnel File (OMPF);
- e. Request consideration of a backdate or acceleration of promotion date to O-3/Lieutenant;  
and
- f. If required, request designator code for 10 July 2020 to 4 March 2021 be changed from 1970 to 1100 so the period of time is recognized as active-duty service.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 16 November 2023, and pursuant to its regulations, determined 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

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portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. Petitioner was commissioned as an Ensign in the United States Navy on 1 June 2016 and entered Officer Development School on 25 June 2016. On 1 August 2016, he entered [REDACTED] as a 1970-designated medical student. See enclosure (2).

c. On 1 January 2017, Petitioner was involved in an alcohol-related incident (ARI) wherein the [REDACTED] Police arrested him for simple assault and resisting arrest. On 5 April 2017, he pleaded guilty to simple assault in the Superior Court of the [REDACTED] (Court) and entered a deferred sentencing agreement requiring him to perform 48 hours of verified community service in [REDACTED]. On 5 October 2017, upon full performance of the deferred sentencing agreement, the Court dismissed the simple assault charge. See enclosures (3) and (4).

d. By memorandum of 7 April 2017, the [REDACTED] Commander submitted his Final Civil Action Report (FCAR) to Commander, Navy Personnel Command (PERS 834) via the [REDACTED] Brigade Commander and Commandant, [REDACTED]. The Commander did not request Petitioner's detachment for cause nor did he recommend Petitioner be required to show cause for retention in the naval service. On 4 August 2017, PERS-834, informed Petitioner the Show Cause Authority, Deputy Chief of Naval Personnel (DCNP), determined the ARI did not require him to show cause for retention in the naval service but the adverse material would be inserted into his OMPF. See enclosures (3) and (5).

e. On 9 July 2020, Petitioner voluntarily withdrew from [REDACTED] and, on 10 July 2020, began duty as the Administrative Officer for [REDACTED] while awaiting the opportunity to submit a lateral transfer request in February 2021. Of note, Petitioner retained the 1970 designator code despite having withdrawn from [REDACTED]. See enclosure (6)

f. Petitioner's 13 January 2021 request for lateral transfer to the [REDACTED] was approved on 4 March 2021. However, due to the adverse information related to the 2017 ARI, Petitioner's transitional appointment scroll to the [REDACTED] was delayed while awaiting the Secretary of the Navy's (SECNAV's) review of the adverse information. After review by DCNP, Chief of Naval Personnel, and the Secretary of Defense, Petitioner's appointment to the [REDACTED] was finalized and his oath of office signed on 26 October 2022. See enclosures (2) and (7).

g. On 25 July 2023, BUPERS-31 directed Petitioner's oath of office be revised to reflect a 4 April 2019 O-1 DOR and 4 April 2021 O-2 DOR. See enclosure (2).

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h. Petitioner contends the [REDACTED] Officer Community Manager (OCM) explained that he would be accepted to the [REDACTED] as a Lieutenant Junior Grade given his four years at [REDACTED]. Further, he contends he is only seeking this credible time in parity with other former students who were credited for their time at [REDACTED]. Petitioner continues to express his remorse for his actions that led to the 2017 ARI and shared the positive changes that were prompted by the incident. See enclosure (1).

i. By memorandum of 9 September 2023, the Office of Legal Counsel (BUPERS 00J) provided enclosure (2), an Advisory Opinion (AO) addressing Petitioner's contentions. The AO notes Petitioner's requests relating to TIS and DOR may be "disregarded as moot" by the actions taken by BUPERS-31 in July 2023 which resolved "in an equal (or better) manner" Petitioner's requested TIS and DOR changes. Further, the AO determined the adverse material in Petitioner's record regarding the 2017 ARI should remain in his record.

j. In his rebuttal of 23 October 2023 at enclosure (8), Petitioner noted his requests to change his O-1 and O-2 DOR have been satisfactorily addressed via a revised oath of office, although he is still awaiting completion of his pay corrections. However, Petitioner contends the AO incorrectly stated the TIS start date request was moot. As of the date of his rebuttal, Petitioner's TIS start date remained 26 October 2022. Per discussions with the [REDACTED] OCM and Assistant OCM, Petitioner contends his record indicates he signed an O-1 oath of office on 1 June 2016 giving him a 1970 designator which remained "attached" to Petitioner until he signed the MSC oath of office on 26 October 2022 designating him as a 2300. Petitioner contends the AO confuses TIS, which is used for service calculation purposes, and DOR, which is used for promotion purposes. In his rebuttal, Petitioner states his agreement with the AO's recommendation to deny removal of the adverse material.

k. Per Section 2126 of reference (a), Petitioner's [REDACTED] time is not creditable service, meaning, as long as the time served from 10 July 2020 to 25 October 2022 is coded with the 1970 designator, Petitioner does not receive credit towards his Pay Entry Base Date (PEBD), Active Duty Service Date (ADSD), or retirement eligibility for any of that time served on active duty.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief. The Board concurred with the AO's comments regarding the DOR corrections but noted the AO incorrectly treats TIS and DOR as related, when TIS is used for service calculations and DOR is used for promotion purposes. The Board determined Petitioner's 1970 student designator did not appropriately define his service once he voluntarily withdrew from [REDACTED] and began work on 10 July 2020 as the Administrative Officer, a fulltime active-duty billet, while awaiting an opportunity to request lateral transfer. The Board further noted that because his designator was not changed to 1100 upon his withdrawal from [REDACTED], Petitioner's TIS date does not accurately reflect the date he transitioned to service as an active duty officer vice a medical student at [REDACTED]. In the interests of justice, the Board concluded that from 10 July 2020 until he signed the oath of office as a 2300, Petitioner's designator should be reflected as 1100 vice 1970.

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The Board, noting Petitioner's own agreement with the AO, substantially concurred with the AO regarding the inclusion of the adverse material in Petitioner's record and concluded the "17CSF Records" should remain in Petitioner's OMPF.

#### RECOMMENDATION

In view of the above, the Board recommends the following corrective action.

Petitioner's naval record be corrected by granting him an oath of office with an 1100 designator, signed 10 July 2020, ensuring his TIS credit towards PEBD, ADSD, and retirement eligibility is established as 10 July 2020.

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

12/8/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]