



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

[REDACTED]
Docket No. 6448-23
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1001.39D, 20 Feb 01
(c) Title 10 U.S.C. § 12731

Encl: (1) DD Form 149 w/attachments
(2) 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 show he transferred to the Retired Reserve awaiting pay at age 60 and eligible for Reserve Component Survivor Benefits Plan (RCSBP).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 8 August 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. Subject enlisted in the U.S. Naval Reserve for six years on 31 May 1966 with an end of current contract (ECC) of 30 May 1972.

b. Subject married Petitioner on [REDACTED] [REDACTED]

c. Subject was released from active duty and transferred to the Navy Reserve 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 6 October 1966 to 13 September 1970 due to reduction in authorized strength. Subject was honorably discharged from the U.S. Naval Reserve on 30 May 1972.

d. Subject reenlisted for three years in the U.S Naval Reserve on 14 January 1987 with an ECC of 13 January 1990 and reenlisted for six years in the U.S Naval Reserve on 14 January 1990 with an ECC of 13 January 1996.

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[REDACTED]

e. On 16 January 1993, Subject completed a Servicemen's Group Life Insurance Election and Certificate listing Petitioner as the principal beneficiary.

f. Subject reenlisted for six years in the U.S Naval Reserve on 7 January 1996 with an ECC of 7 January 2002.

g. Subject reenlisted for six years in the U.S. Naval Reserve on 28 September 2001 with an ECC of 27 September 2007.

h. On 6 December 2002, Commander, Navy Personnel Command (NPC) issued a Report of Casualty (DD Form 1300) stating that Subject was involved in an accident and received injuries while he was driving a motorcycle. Subject died on 27 October 2002. Furthermore, he was a Reservist/Off Duty.

i. On 28 August 2003, Naval Reserve Personnel Center issued a Statement of Service for Naval Reserve Retirement listing 19 years, 8 months, and 22 days of qualifying years of service (QYS) and 2,625 total retirement points creditable for pay. Subject would have turned 60 on [REDACTED]

j. On 7 June 2023, NPC issued a Statement of Service for Naval Reserve Retirement listing 20 years, 9 months, and 24 days of QYS and 2,651 total retirement points creditable for pay.

k. On 6 July 2023, NPC notified the Honorable [REDACTED] United States Senator that the Reserve Personnel Management Department completed a thorough review of Petitioner's request. Subject achieved 20 years, 9 months and 14 days of QYS in accordance with Title 10 U.S.C. Chapter 1223, retired pay for non-regular service, and is entitled to a non-regular retirement. The Naval Sea Cadet Corps is a Youth (ages 10 to 18) development program, therefore, participation in the program does not meet the qualifications for credit towards retirement in accordance with Title 10 U.S.C. Chapter 12732, entitlement to retired pay: computation of years of service. Subject's previous point calculations did not reflect his entire service which is why Petitioner's previous application was denied. Subject was never notified of his eligibility to participate in the RCSBP. The Chief of Naval Operations Instruction 1750.11A, Section 4a, Survivor Benefit Plan Program states all active duty and certain inactive duty Sailors who have a qualified beneficiary (e.g. former spouse, spouse, minor children) regardless of years of service, and passed in the Line of Duty are eligible for RCSBP coverage. Due to the erroneous accounting of Subject's participation points, the Reserve Personnel Management Department recommended that Petitioner petition this Board requesting that Subject's Survivor Benefits Plan entitlement be retroactively applied to the date on which Subject would have reached the age of 60.

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 due to the erroneous accounting of Subject's QYS, Subject was never notified of his eligibility to participate in the RCSBP via NOE prior to his death on 27 October 2002. At the time of his passing, Subject had over 20 years of QYS, making him eligible to submit a request for voluntary retirement¹ and transfer to retired reserve and to participate in the RCSBP.

¹ Reference (b), voluntary retirement and transfer to retired reserve status for members eligible for non-regular service retired pay at or after age 60. Reservists who are eligible for non-regular service retired pay at or after age 60 may be retired and transferred

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[REDACTED]

RECOMMENDATION

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

Subject received a Notification of Eligibility (NOE) letter upon completing 20 years of QYS. Furthermore, Subject submitted a RCSBP Election Certificate in a timely manner naming Susan M. Steinbauer as the RCSBP beneficiary, at the full level of coverage, option "C"

Subject was transferred to the retired reserve, without pay, effective 1 October 2002.

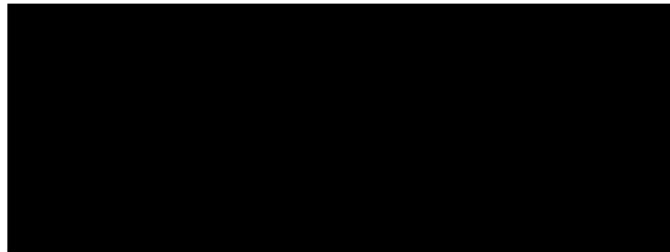
Note: That any other entries affected by the Board's recommendation be corrected. Defense Finance & Accounting Service will complete an audit of Subject's records to determine if Petitioner is due any back pay.

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.

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.

8/14/2023



to retired reserve status upon application or as otherwise directed by NAVPERSCOM (PERS-911 or PERS-913) provided the member was issued a notification of eligibility (NOE) or has completed all the requirements necessary to qualify for an NOE for non-regular service retired pay at or after age 60 (see section 2007). The member is not entitled under any other provision of law to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or Fleet Marine Corps Reserve. There is not a stop-loss or other service restriction policy in effect. Submission of application for retirement and transfer to retired reserve status. Applications for voluntary retirement and transfer to retired reserve status should be sent in time to reach NAVPERSCOM (PERS-912) between 6 and 12 months in advance of the requested retirement or transfer date.