



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

[REDACTED]
Docket No: 3473-16

MAR 27 2017

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

Subj: REVIEW OF NAVAL RECORD ICO

[REDACTED] USN RET, [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to place him on the retirement list under Temporary Early Retirement Authority (TERA) in lieu of his placement on the Permanent Disability Retirement List.
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 February 2017 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, naval records, and applicable statutes, regulations and policies. The Board also considered the advisory opinion contained in CNPC ltr 1770 Ser 95/0020 of 20 Jan 2017.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Petitioner was placed on the Temporary Disability Retirement List (TDRL) on 7 June 2001 due to a qualifying physical disability rated at 30% by the Physical Evaluation Board. At the time of his placement on the TDRL, Petitioner had 17 years, six months, and 30 days of qualifying service. He was subsequently transferred to the Permanent Disability Retirement List (PDRL) in 2004.
 - c. Commander, Navy Personnel Command provided an advisory opinion that Petitioner was eligible for retirement under TERA at the time he was placed on the TDRL.
 - d. Petitioner is ineligible for concurrent receipt of Department of Veterans Affairs compensation and retirement pay since he was retired due to a disability.

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[REDACTED] USN RET, [REDACTED]

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action.

The Board concluded that Petitioner provided sufficient mitigation evidence to support changing his retirement status from PDRL to TERA in order to qualify Petitioner for potential receipt of concurrent VA disability compensation and Department of Defense retirement pay.

RECOMMENDATION:

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

a. Petitioner was placed on the retirement list under Temporary Early Retirement Authority effective 7 June 2001 vice the Temporary Disability Retirement List.

b. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that 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]
Record

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.

[REDACTED]
Executive Director