



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

[REDACTED]
Docket No. 4922-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) Office of the Assistant Secretary of Defense memo, 1 Jul 02

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by NPPSC memo 7220 N1, 12 Dec 23
(3) 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 Petitioner was awarded four (4) additional years of creditable service for retired pay for attending [REDACTED]

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 February 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. Petitioner was released from active duty (Army) 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 11 July 1993 to 8 September 1995 due to interdepartmental transfer.

b. On 9 September 1995, Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/20) in the active U.S. Naval Reserve as an Ensign with a day of rank of 23 June 1993 with a designator code of 1975 (An Unrestricted Line Officer under instruction in the Armed Forces Health Professions Scholarship Program (Medical/Osteopathic)).

c. On 17 May 1997, Petitioner was awarded Doctor of Medicine from [REDACTED]

d. On 17 May 1997, Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/20) in the active U.S. Navy as a Lieutenant with a day of rank of 17 May 1997 with a designator code of 2100 (Staff Corps Officer billet requiring Medical specialty).

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e. In accordance with reference (b), Office of the Assistant Secretary of Defense memorandum for Deputy Assistant Secretary of the Army (Military Personnel Management and Equal Opportunity Policy) Principal Deputy Assistant Secretary of the Navy (Manpower & Reserve Affairs) Deputy Assistant Secretary of the Air Force (Force Management and Personnel) Director, Defense Finance and Accounting Service (DFAS).

Years of service at USUHS as a medical student are creditable in computing retired pay. For example, an O-6 with 20 years and 6 months service under 37 U.S.C. 205 (which excludes time at [REDACTED] is receiving basic pay for an O-6 over 20, currently \$6,948.30. If this individual served 4 years and 6 months' time at [REDACTED] then upon retirement, the member is to receive retired pay computed at 62.5% of that pay, or \$4,342. The 62.5% is computed as 2.5% time 25 (20.5 + 4.5) years of service as this computation will include the USUHS time.

f. Petitioner was retired 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 17 May 1997 to 31 October 2021 upon having sufficient service for retirement.

g. On 12 January 2022, DFAS notified Petitioner that "Non disability retired pay is calculated using the formula shown on the enclosed worksheet. Please review the worksheet carefully for an explanation of the methods used to calculate regular retired pay.

Please note that because your retired pay is based on your active-duty records, any change which will affect the calculation of your pay must be initiated by the Navy/Marine Personnel Command. A change in your official Navy records is made only after an administrative examination of the evidence is approved by the Navy/Marine Personnel Command. A request for change should be sent to: Navy Personnel Command.

Changes made to your Navy records will be effective from the approval date by the Navy/Marine Personnel Command. A copy of the authorization letter will be sent to our office by the Navy/Marine Personnel Command upon their determination of your request."

h. On 31 March 2023, Ask Retired Pay – Online Customer Service (Ticket number 202303311011) under subcategory "Distribution or Collection of Payments" states the following: "I graduated from the [REDACTED] and am eligible for 4 years of credit for pay purposes at retirement by Congressional Legislature. I have submitted all the paperwork in 2021 after retirement but have NOT had my pay corrected. Please see attached documents and assist."

i. DFAS HUNT system, shows Petitioner's Service Entry Date is 9 September 1995, his retirement date is 1 November 2021, and Pay Entry Base Date (PEBD) is 17 May 1997. Petitioner's Service Base Pay is 24 years, 5 months, and 14 days, Service Percent Multiplier is 26 years, 1 month, and 22 days, and Total Active Service is 24 years, 5 months, and 14 days.

j. On 21 November 2023, Navy Personnel Command (NPC) notified BCNR that per BUPERS INSTRUCTION 1900.8B, time served as a student while attending [REDACTED] should be listed in the Remarks section, Block 18 of DD 214. This is considered an administrative oversight and a Correction to DD 214 (DD 215) will be issued by this office to add to Block 18: "Served active duty as a medical student officer (O-1, US Navy) at the [REDACTED] from 9 September 1995 to 16 May 1997".

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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 a statement of service would be required in order to correct Petitioner's record.

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. The Board concluded that Petitioner's Navy Statement of Service shows that he served in the USUHS for the period of 9 September 1995 to 16 May 1997, and NPC has stated that they will issue a DD 215 to add to Block 18: "Served active duty as a medical student officer (O-1, US Navy) at the [REDACTED] from 9 September 1995 to 16 May 1997." Additionally, Petitioner's DD Form 214 issued by the Army upon his interdepartmental transfer on 8 September 1995 is not included in his Navy Statement of Service. Petitioner served in the [REDACTED] from 11 July 1993 to 8 September 1995 for a total of 2 years, 1 month, and 28 days. The Board agreed that NPC will issue Petitioner an updated Statement of Service reflecting Petitioner's service prior to his interdepartmental transfer, to ensure that his retired pay is correctly calculated.

RECOMMENDATION

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

Petitioner's Statement of Service listed a period of service from 11 July 1993 to 8 September 1995 while a Second Lieutenant (O-1) in U.S. Army Reserve [REDACTED] (Not Creditable for any Purpose).

Note: Navy Personnel Command will determine if the period of service while in the U.S. Army Reserve is creditable for retirement purposes. Furthermore, that any other entries affected by the Board's recommendation be corrected. Finally, DFAS will complete an audit of Petitioner's pay records to determine Petitioner's pay entitlements.

That no further changes be made to Petitioner's naval record.

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

2/27/2024

[REDACTED]