



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

█
Docket No. 7210-23
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) MILPERSMAN 1430-010
(c) BUPERSINST 1430.16G
(d) BUPERSINST 1610.10F

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by NPPSC, 31 Jan 24
(3) Advisory Opinion by OPNAV N132, 26 Apr 24
(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 reflect initial advancement to E-3 effective 25 February 2022 and reinstatement to E-3 effective 13 July 2023.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 6 June 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. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. On 15 November 2021, Petitioner entered active duty in paygrade Seaman Apprentice (SA)/E-2.

b. On █ Commanding Officer (CO), █
█ designated Petitioner as █ Surface Command Core School.
Additionally, CO, █ notified CO, █
█ of Petitioner's designation as an Honor Graduate.

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

c. “Meritorious Advancement” NAVPERS 1070/613, Administrative Remarks authorizing advancement to paygrade E-3 effective 25 February 2022 was uploaded to Petitioner’s electronic service record (ESR) and verified on 22 May 2023.

d. On 28 February 2022, Petitioner reported to his first permanent duty station, ██████████ for duty.

e. On 16 August 2022, Petitioner advanced Seaman (SN)/E-3.

f. On 13 October 2022, Petitioner subject to nonjudicial punishment, awarded reduction in rate (RIR) to E-2 and 30-days extra duties. Petitioner issued Special evaluation for period of report from 16 July 2022 to 13 October 2022. Petitioner received a Significant Problems promotion recommendation and was not recommended for retention.

g. On 21 October 2022, “Administrative Counseling and Warning” NAVPERS 1070/613, Administrative Remarks uploaded to Petitioner’s ESR and verified on 22 May 2023.

h. On 8 May 2023, “Refusal to Select a Rate” NAVPERS 1070/613, Administrative Remarks was uploaded to Petitioner’s ESR and verified on 22 May 2023.

i. Petitioner issued Periodic evaluation for period of report from 14 October 2022 to 15 July 2023. Petitioner received Progressing promotion recommendation and was not recommended for retention.

j. On 14 August 2023, “Reinstatement to E3” NAVPERS 1070/613, Administrative Remarks was uploaded to Petitioner’s ESR but was not verified.

k. On 13 September 2023, Petitioner acknowledged receipt of NAVPERS 1910/31, Administrative Separation Processing Notice for “Separation by Reason of Misconduct – Commission of a Serious Offense as Evidenced by Preliminary Investigation dated 21 June 2023” and “Separation by Reason of Misconduct – Commission of a Serious Offense as Evidenced by NAVPERS 1070/613 dated 16 May 2023.” Petitioner completed response to this notice on 15 September 2023.

l. On 18 September 2023, CO, ██████████ approved Petitioner’s discharge with Character of Service: General (Under Honorable Conditions), Separation Program Designator (SPD): “JKQ”, Reentry Code: “RE-4” and Narrative Reason for Separation: Commission of a Serious Offense.

m. On 17 October 2023, Petitioner issued BUPERS Order: 2903 (Official Separation Orders); SPD: “JKQ”, Character of Service: General, and effective date of separation: 20 October 2023.

n. On 20 October 2023, Petitioner discharged and issued DD Form 214, Certificate of Release or Discharge from Active Duty. DD Form 214 reflects rate/rank as SA/E-2 effective 13 October 2022.

o. 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 for reinstatement does not warrant favorable action. The advisory opinion attached as enclosure (3) recommended approval of retroactive advancement to E-3 effective 25 February 2022 vice 16 August 2022.

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

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) and (3), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner met the criteria for advancement to E-3 effective 25 February 2022 in accordance with reference (b),¹ however as result of administrative oversight Petitioner's was not advanced to E-3 until 16 August 2022. Conversely, the Board determined Petitioner should not be retroactively advanced to E-3 after RIR because there is no evidence in the record to reflect his CO recommended him for advancement or reinstatement in accordance with references (c)² and (d).³ Therefore, the Board determined that under these circumstances, partial relief is warranted.

RECOMMENDATION

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

Petitioner advanced to SN/E-3 effective "25 February 2022" vice "16 August 2022."

The part of Petitioner's request for corrective action that exceeds the foregoing is denied in accordance with reference (c) and (d).

That 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 titled 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.

6/26/2024

[REDACTED]

Deputy Director

Signed by: [REDACTED]

¹ COs of traditional training schools are authorized to advance the number one "A" School graduate in each class to the next higher pay graded (not to exceed E-3).

² Specifies that time-in-rate (TIR) from E-2 to E-3 is 9-months. Additionally, COs/Officers-in-Charge have the authority to reinstate members to E-2 and E-3 (one paygrade only) at any time after RIR, without referral to higher authority. Sailors in paygrades E-1 to E-9 that have a RIR are assigned a TIR date of the actual date of RIR.

³ Indicates evaluations with a Progressing promotion recommendation means the Service member is making progress but is not ready to be recommended for promotion.