



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

█  
Docket No. 173-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █

Ref: (a) Title 10 U.S.C. § 1552  
(b) BUPERSINST 1900.8E, 27 Aug 18<sup>1</sup>  
(c) Title 10 U.S.C. § 1168<sup>2</sup>  
(d) DoD 7000.14-R FMR Volume 7A, Chapter 1<sup>3</sup>

Encl: (1) DD Form 149 w/attachments  
(2) Advisory opinion by █ memo 7220 N1, 6 Feb 24  
(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 establish Petitioner's authorization of payments of lump sum leave, separation pay, and relief of four (4) months overpayments due to improper late separation procedures.

2. The Board, consisting of █ 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. 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 discharged 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 16 June 2012 to 6

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<sup>1</sup> Reference (b), "[t]o provide instructions for preparing and distributing the DD 214 Certificate of Release or Discharge from Active Duty; DD 214C Certificate of Release or Discharge from Active Duty, Continuation Sheet; DD 214WS Certificate of Release or Discharge from Active-Duty Worksheet; and DD 215 Correction to DD 214, Certificate of Release or Discharge from Active Duty. This instruction has been completely revised to incorporate changes made to reference (a) [DoD Instruction 1336.01 of 20 August 2009] to include changes for electronic submission of the DD 214 when available. This instruction should be reviewed in its entirety."

<sup>2</sup> Reference (c), "[a] member of an armed force may not be discharged or released from active duty until his discharge certificate or certificate of release from active duty, respectively, and his final pay or a substantial part of that pay, are ready for delivery to him or his next of kin or legal representative. This section does not prevent the immediate transfer of a member to a facility of the Department of Veterans Affairs for necessary hospital care."

<sup>3</sup> Reference (d), members are entitled to receive pay according to their pay grades and years of service if they are: on active duty in a pay status; and not prohibited by law from receiving such pay.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]

September 2012 due to accepting commission or warrant in same branch of service. DD Form 214 was signed by Official Authorized to sign on 6 September 2012.

b. On 19 September 2022, Petitioner was issued official separation orders (BUPERS order: 2622) while stationed in [REDACTED] with an effective date of departure of December 2022. Petitioner's completion of separation processing was no later than 1 January 2023. Furthermore, if an acceptance and oath of office for a reserve appointment (NAVPERS Form 1000/4) has not been received by Petitioner's command, payment of separation pay shall not occur until member signs DD Form 1070/613 (page 13 entry) containing the following statement: "date: 1 January 2023: I agree to sign an acceptance and oath of office (NAVPERS Form 1000/4) for an appointment into the Navy Reserves for a period of three years after separation, if one is tendered."

c. Transient Personnel Unit Norfolk issued Petitioner an Administrative Remarks (NAVPERS 1070/613) for Involuntary Separation Pay, signed by Petitioner and a witness. "As a condition of eligibility for Involuntary Separation Pay (ISP), I agree to serve in the Ready Reserve, Selected Reserve (SELRES), or Individual Ready Reserve (IRR) for a period of 3 years in addition to any remaining service obligation I have incurred under law. If I am offered a Reserve Oath of Office. I understand this agreement is made without regard to the reason for my separation or my eligibility for affiliation with the Ready Reserve. Furthermore, should I be accepted in the Ready Reserve, I must sign a Reserve Oath of Office as a condition of qualifying for involuntary separation pay. On 1 March 2023: I agree to sign an acceptance and Oath of Office (NAVPERS Form 1000/4) for an appointment into the Navy Reserves for a period of three years after separation if one is tendered."

d. Petitioner was discharged with an honorable character of service and was issued a DD Form 214 for the period of 7 September 2012 to 1 January 2023 due to non-selection permanent promotion. Block 16 (Days accrued leave paid) listed 60.0. Block 18 (Remarks) listed Separation payment of \$92,485.00. DD Form 214 was signed by Official Authorized to sign on 26 April 2023.

e. On 10 February 2023 Petitioner's scroll was approved and Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVPERS 1000/4) in the inactive U.S. Naval Reserve as a Lieutenant with a date of rank 1 October 2016 with a designator code of 1315 (An Unrestricted Line Officer who is qualified for duty involving flying heavier-than-air, or heavier and lighter-than-air type of aircraft as a pilot).

f. On 3 May 2023 Master Military Pay Account listed Petitioner's base pay stopped effective 1 January 2023. Furthermore, Petitioner's leave balance brought forward from prior FY on 1 October 2022 was 61.5 (lost 17.5 days). Petitioner earned 8.0, used 38.0 with a leave balance of 31.5 days. Finally, Petitioner was paid \$7,707.11 for 31.5 days of accrued leave.

g. On 6 July 2023, Petitioner's Navy IRR package was submitted.

h. On 3 June 2024, the Defense Finance and Accounting Service (DFAS) notified the Board that ISP was never paid.

i. On 5 June 2024, Pers-97 notified the Board that according to Navy Standard Integrated Personnel System records, Petitioner is already in the IRR.

## 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 was discharged on 1 January 2023 and his DD Form 214 lists that he is entitled to separation pay, however the DFAS confirmed that he never received it. Additionally, Petitioner's scroll was not approved until 10 February 2023, creating a gap in service. Furthermore, due to no fault of Petitioner, he was erroneously retained in a pay status for four months, resulting in a debt of \$28,266.93. The Board determined that Petitioner was aware that he would be separating on 1 January 2023 and should have known that he was not entitled to any payments after that date. Therefore, the Board determined that Petitioner is entitled to separation pay only. Petitioner's debt from four months of overpayments is a valid debt and must be repaid and will be offset by any leave sellback he may be owed.

## RECOMMENDATION

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

Petitioner signed an Officer Appointment Acceptance and Oath of Office (NAVPERS 1000/4) in the inactive U.S. Naval Reserve on 2 January 2023 vice 10 February 2023. Note: Furthermore, that any other entries affected by the Board's recommendation be corrected.

Note: Petitioner is authorized payment of "full" ISP based on his discharge which occurred on 1 January 2023. Furthermore, the separation pay described above will be offset by any Veterans Disability Compensation to which Petitioner is or becomes entitled. Finally, the 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.

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.

6/20/2024

