



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

█
Docket No. 1503-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, █,
USN, █

Ref: (a) Title 10 U.S.C. § 1552
(b) MILPERSMAN 1160-050, 5 Oct 18

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by NPPSC memo 7220 N1, 23 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 show Petitioner was released from active duty on 21 February 2020 vice 9 February 2020 and cancelation of debt.

2. The Board, consisting of █, and █ reviewed Petitioner's allegations of error and injustice on 30 July 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. On 10 February 2016, Petitioner reenlisted for 4 years with an end of active obligated service (EAOS) of 9 February 2020.

b. In accordance with reference (b), members may be extended involuntarily beyond their EAOS as a result of apprehension, arrest, confinement, investigation, or filing of charges that may result in a trial by court-martial, and execution of any sentence thereof. If such action is initiated with a view to trial because of an offense under reference (b) committed by a member prior to their official discharge or separation, even though the term of enlistment or Obligated Service may have expired, they may be retained in service for trial and punishment after their period of service would otherwise have expired. Members who are involuntarily extended due to criminal proceedings and whose term of enlistment or Obligated Service has expired, may

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negotiate for and receive administrative separation under MILPERSMAN 1910 series and a related characterization of service even if their enlistment contracts have expired. Administrative separation may be in lieu of trial by court-martial or part of a pre-trial agreement.

c. On 27 November 2019, Petitioner was issued official separation orders (BUPERS order: 3319) while stationed in [REDACTED] with an effective date of departure of February 2020. Your home of selection: [REDACTED] with an actual date of separation of 9 February 2020.

d. On 6 February 2020, [REDACTED] issued Petitioner an Administrative Remarks (NAVPERS 1070/613) with remarks stating that Petitioner was “[h]eld involuntarily beyond normal expiration of obligated service awaiting criminal Investigation. Extension will expire on 09MAR2020. While on legal hold, service member is not eligible for discharge or transfer.”

e. Petitioner was released from active duty and transferred to Naval Reserve 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 3 July 2012 to 9 February 2020 upon completion of required active service. Signed by Authorizing Official on 10 January 2020.

f. On 10 March 2010, your Master Military Pay Account listed Petitioner’s base pay stopped effective 9 February 2020.

g. On 27 December 2021, Naval Criminal Investigative Service (NCIS), report of investigation closed (Control [REDACTED]). The following is noted:

“On 29 January 2020, under ACTION, “ATTN: Please brief Commanding Officer, Naval Health Clinic-[REDACTED], on the inclusion of [Petitioner] as a co-subject in this investigation.”

“On 07Feb20, Naval Health Clinic-[REDACTED] placed [Petitioner] on 14 days of legal hold in order to provide NCIS an opportunity to obtain and review [...]”

h. On 14 September 2023, statement of Military Pay Account (DFAS-IN Form 0-641) was issued that stated, “[t]he debt is due to an end of month payment of \$2,627 47, dated 02/30/2020 This payment was for 15 days Due to your date of separation, you were entitled to 0 days If you disagree with the validity or amount of your debt, please contact the pay office, DMPO, or AFAFO that placed you in debt and have them provide our office with proper documentation to alter or cancel your debt.”

i. On 19 September 2023, the Defense Finance and Accounting Service (DFAS) notified Petitioner that “[T]his is in response to your request for a hearing under 31 U.S.C. § 37201) and 31 C.F.R. § 285.11, for Account Number [REDACTED]. It was determined an administrative hearing was appropriate. The hearing was accomplished by reviewing the records to validate the

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debt for the purpose of administrative wage garnishment. The enclosed copy of the hearing decision is for your information.”

Summary Record and Hearing Decision in part:

“[Petitioner] alleges he does not owe the debt because he was retained on active duty involuntarily. [Petitioner] was involuntarily held beyond his normal obligated service while awaiting a criminal investigation. Pay and allowances are discontinued when a military member's term of enlistment expires if they are involuntarily held beyond their normal obligated service while awaiting a criminal investigation.”

“Based on a review of [Petitioner's] records, and pertinent documentation, it is determined the debt remains valid and the amount is correct. [Petitioner] was provided due process and collection of the debt by administrative wage garnishment, not to exceed 15% of disposable pay, is proper.”

j. On 29 May 2024, Travel Processing Center Memphis notified the Board that no travel settlement posted tin [REDACTED] or [REDACTED] under BUPERS order 3319.

k. On 25 July 2025, NAVSUP Fleet Logistics Center [REDACTED] notified the Board that the audit team received no HHG information for Petitioner for BUPERS order: 3319.

l. 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 after a review of all pay and personnel systems, there is no evidence that reflects the Legal Hold page 13 was submitted to the servicing Transaction Service Center to extend the member on active duty. A review of TOPS, SalesForce, the electronic service record and the service member's Official Military Personnel File does not indicate that the service member was extended beyond their EAOS.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following partial corrective action. The Board concluded that on or about 29 January 2020, Commanding Officer, Naval Health Clinic [REDACTED] was notified of Petitioner's inclusion as a co-subject in an NCIS investigation. On 6 February 2020, NMRTC, [REDACTED] issued Petitioner NAVPERS 1070/613 notifying him that he was being held involuntarily beyond normal expiration of obligated service awaiting criminal Investigation, that the extension would expire on 9 March 2020, and that while on legal hold, he was not eligible for discharge or transfer. Additionally, the NCIS Report of Investigation states that Petitioner was placed on legal hold for 14 days effective 7 February 2020. At that time Petitioner's DD Form 214 had already been prepared and signed by the Authorizing Official on 10 January 2020, with a separation date (block 12b) of 9 February 2020. The Board determined that Petitioner was on legal hold from 7 February 2020 until 21 February 2020. Because his drop entry was reported as 9 February 2020, Petitioner incurred a debt for pay received after said date. Therefore, the Board

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determined that Petitioner's DD Form 214 signed by the Authorizing Official on 10 January 2020 will be corrected to list 21 February 2020 in block 12b.

RECOMMENDATION

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

Petitioner's DD Form 214 signed by Authorizing Official on 10 January listed block 12b (Separation Date This Period) as 21 February 2020 vice 9 February 2020. Note: Navy Personnel Command will issue a DD Form 215 or a new DD Form 214, whichever one they deem appropriate, and adjust any other items in block 12 that reflects the Board's corrective action.

The DFAS will complete an audit of Petitioner's pay records to determine amounts due, if any.

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

That a copy of this report of proceedings 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.

8/5/2024

