



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

█
Docket No. 5253-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █
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Ref: (a) Title 10 U.S.C. § 1552
(b) Title 37 U.S.C. § 3702
(c) BUPERSINST 1001.39E

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by NPC (PERS-91), 4 Jun 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 reflect 28 qualifying years of service for non-regular retirement and receive retroactive retired pay effective 17 March 2006.

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 3 September 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 18 July 1973, Petitioner accepted an Inactive commission and accepted an Active commission on 2 October 1974. He served on active duty from 13 October 1974 to 14 October 1976, and thereafter transferred to the Navy Reserve.

b. In March 1996, Petitioner issued Notification of Eligibility (NOE) to Receive Retired Pay at Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RCSBP).

c. On 22 September 2000, Petitioner issued Change in Your Naval Reserve Status notification indicating, commanders who are not on the promotion list shall be transferred to the Retired Reserve if qualified and requested on the first day of the month following completion of 28 years of actual commissioned service. The letter further specified that Petitioner would reach 28 years of actual commissioned service in July 2001 and would be subject to the aforementioned requirement.

d. Petitioner transferred to the Retired Reserve without pay effective 1 August 2001.

e. On 1 October 2001, Petitioner issued Statement of Service for Naval Reserve Retirement that reflected completion of 22 years, 9 months, and 16 days total qualifying years of service but did not earn qualifying years of service for non-regular retirement for anniversary years, 18 July 1973 to 1 October 1974; 18 July 1997 to 17 July 1998; 18 July 1998 to 17 July 1999; 18 July 1999 to 17 July 2000; and 18 July 2000 to 31 July 2001.

f. On 17 March 2006, Petitioner turned age 60.

g. 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 credit of 28 years of qualifying service has no merit because his record reflects only earning just over 22 years of qualifying service. The advisory opted not to make a recommendation regarding retroactive retired pay because they were working with Petitioner to submit a retired pay application.

h. On 29 July 2024, Petitioner issued Authorization to Retired Pay for Non-Regular Service effective 17 March 2006. However, HUNT reflects pay start date of 1 August 2024.

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 error warranting the following partial corrective action. The Board surmised that Petitioner misunderstood that the years of actual commissioned service equated to actual years of completed qualifying service for non-regular retirement. The Board also determined Petitioner met the criteria to receive retired pay effective 17 March 2006 but as a result of not submitting the retired pay application package until 2024, he was subject to the provisions of reference (b).¹ However, Petitioner's official military personnel file does not reflect that he was issued the retired pay application package nor is there evidence of Petitioner requesting the package in accordance with reference (c).² Although Petitioner did not complete the appropriate administrative requirements, the Board concluded that had he received adequate counseling from the Service, he would have completed the documents required to receive retired pay effective 17 March 2006. Therefore, the Board determined that under this circumstance, partial relief is warranted.

RECOMMENDATION

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

Petitioner submitted request to transfer to the Retired Reserve with pay in a timely manner and it was approved by cognizant authority with an effective date of 17 March 2006.

¹ Claims involving uniformed service members' pay, allowances, travel, and transportation, payments for unused accrued leave, retired pay, and survivor benefits must be received within 6 years from the date it accrues.

² Reserve component members are eligible upon application to received retired pay at age 60. Navy Reserve Personnel Center (N32) was charged with sending the application package to eligible personnel approximately 10 months prior to their 60th birthday. However, if an individual did not receive the application package 8 months prior to turning age 60 they were directed to contact Navy Reserve Personnel Center (N32). Nevertheless, retired pay benefits must be requested; the process is not automatic.

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Note: The Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine amounts due, if any.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied.

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.

9/21/2024

[REDACTED]