



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

██████████
Docket No. 11287-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MEMBER ██████████
XXX XX ██████████ USMCR

Ref: (a) Title 10 U.S.C. § 1552
(c) MCO P1900.16F, 30 May 01
(b) Title 10 U.S.C. § 12731

Encl: (1) DD Form 149 w/attachments
(2) Advisory opinion by HQMC memo 1820 MMSR-5 of 11 Dec 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 be transferred to the Retired Reserves awaiting pay at age 60 in the rank of Master Sergeant and receive retired pay in the rank of Gunnery Sergeant.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 22 April 2025 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. In accordance with reference (b), "Retired Grade Determination (Enlisted Personnel). Per SECNAVINST 1820.2 series, enlisted members upon transfer to the retired reserve will be placed on the reserve retired list in the highest grade in which they have served satisfactorily. Reservists in the grades of E-7 through E-9 must serve 2 satisfactory years (50 points per year) from the date of promotion. The CMC (MMSR-5) will make the determination of satisfactory service."

b. In accordance with reference (c), Age and service requirements. (a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—(1) has attained the eligibility age applicable under subsection

(f) to that person; (2) has performed at least 20 years of service computed under section 12732 of this title; (3) in the case of a person who completed the service requirements of paragraph (2) before April 25, 2005, performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight; and (4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Homeland Security, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served. (c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—(A) the person performed active duty during World War I or World War II; or (B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections. (e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed. (f)(1) Subject to paragraph (2), the eligibility age for purposes of subsection (a)(1) is 60 years of age. (2)(A) In the case of a person who as a member of the Ready Reserve serves on active duty or performs active service described in subparagraph (B) after January 28, 2008, the eligibility age for purposes of subsection (a)(1) shall be reduced below 60 years of age by three months for each aggregate of 90 days on which such person so performs in any fiscal year after such date, subject to subparagraph (C). A day of duty may be included in only one aggregate of 90 days for purposes of this subparagraph.

c. On 30 September 1985, Petitioner enlisted into the U.S. Marine Corps Reserve for 8 years with an Expiration of Obligated Service of 29 September 1993.

d. On 11 August 1993, Petitioner reenlisted for 4 years with a new contract expiration date of 10 August 1997. On 5 September 1996, Petitioner reenlisted for 3 years with a new contract expiration date of 4 September 1999. On 24 August 1999, Petitioner reenlisted for 3 years with a new contract expiration date of 24 August 2002.

e. On 1 January 2004, Petitioner was promoted to Gunnery Sergeant/E-7.

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f. On 3 February 2004, Petitioner reenlisted for 2 years with a new contract expiration date of 3 February 2006.

g. On 3 November 2005, Commandant of the Marine Corps notified Petitioner that “[p]er the reference, a review of your record indicates that you are eligible to receive Reserve Retired Pay at age 60. However, this notification is not transferring you to a retired status. You must request a retirement status in accordance with paragraph 3 016 of ref (a) [MCO P1900.16F]. Failure to request retirement will result in your separation from the Marine Corps at the expiration of your contract if not extended. Should your contract expire, and you become separated, this notification will entitle you to retired pay at age 60 as a former member. Unfortunately, this status will reduce the value of your retired pay, as your pay will be calculated on the pay tables in effect at the time of your discharge vice the pay tables in effect on your sixtieth birthday had you transferred to a retired status. The enclosures are provided for your information and retention.”

h. On 12 July 2006, Headquarters, U.S. Marine Corps notified Petitioner that “[o]n 3 November 2005, we sent you your Notification of Entitlement to Retired Pay at Age 60 and Eligibility to Participate in the Reserve Component Survivor Benefit Plan (RCSBP). As of today's date we have not received a response from you.

The letter informed you that you had 90 days from the date of receipt to respond back, or you would be automatically enrolled into Option C “I elect RCSBP coverage for an annuity to begin on the day after the date of death, whether before or after my 60th birthday.” Therefore, as of 1 February 2006, you have been enrolled into Option C. A copy of this letter has been forwarded to your Official Military Personnel File.”

i. On 1 August 2008, Petitioner was promoted to Master Sergeant/E-8.

j. On 21 October 2008, Petitioner reenlisted for 2 years with a Reserve End of Current Contract (RECC) of 20 October 2010.

k. Petitioner’s Career Retirement Credit Report (Marine Corps Total Force System) covering the period of 30 September 1985 to 20 October 2010 listed the following: Total active duty points 6,185. Total points credit 6,560. Total satisfactory/qualifying service 23 years. The last qualifying year Petitioner completed was for the period of 30 September 2007 to 29 September 2008.

l. On [REDACTED], Petitioner turned 60 years old.

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 agreed that Petitioner exceeded the minimum years required to be transferred to the retired reserve awaiting pay at age 60 in accordance with reference (c). Although Petitioner did not complete the administrative requirements listed, the Board

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determined that relief is warranted. However, the Board disagreed with Petitioner's request to be retired in the rank of Master Sergeant. In accordance with reference (b), "Reservists in the grades of E-7 through E-9 must serve 2 satisfactory years (50 points per year) from the date of promotion." Petitioner completed zero qualifying years after his promotion to Master Sergeant/E-8 on 1 August 2008, therefore Petitioner should be transferred to the retired reserve in the grade of Gunnery Sergeant/E-7.

RECOMMENDATION

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

The record of discharge from the U.S. Marine Corps Reserve effective [REDACTED] is rescinded.

Petitioner was transferred to the retired reserve, without pay, effective 1 October 2010.

Petitioner's request for retire pay was submitted and approved by cognizant authority prior to [REDACTED] his 60th birthday) in the rank of Gunnery Sergeant/E-7.

A copy of this report of proceedings will be filed in Petitioner's naval record.

That no further changes be made to 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.

5/4/2025

[REDACTED]