



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

██████████
Docket No. 1766-25
Ref: Signature Date

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Dear ██████████,

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 3 June 2025. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies. In addition, the Board considered the advisory opinion (AO) contained in Commander, Navy Personnel Command (PERS-9) letter 5400 Ser 95/406 of 16 May 2025 and your response to the AO.

On 16 April 2024, Findings of the Physical Evaluation Board Proceedings found you unfit and recommend you to be Placed on the Temporary Disability Retired List with a combined disability rating of 70%. Consequently, on 3 October 2024, COMNAVPERSCOM notified TSC ██████████ NAVRESCEN ██████████ INFO COMNAVPERSCOM Millington TN//PERS95/PERS9/PERS-40/PERS-954/TMU//, CNIC Washington DC that “[t]he Secretary of the Navy has directed the Temporary Disability Retirement ICO the members listed below. Within 5 days of receipt of this message, commands are directed to generate an enterprise customer relationship management case in salesforce.” The message went on to specify a release from active duty date (RAD) of 26 November 2024 and a transfer to the Temporary Disability Retired List (TDRL) of 27 November 2024. Finally, the message clarified the following:

“For information purposes, the release from active duty (RAD) date is the day the member is to be separated from the Navy. The temporary disability retired list (TDRL) date is the day the member will be retired to TDRL.”

On 1 October 2024, you commenced correspondence with PERS 95 to modify your RAD and subsequent TDRL transfer. Your intent was to change your transfer to the TDRL in order to qualify for Department of Veterans Affairs (VA) benefits effective 1 November 2024. With the support of your commanding officer, you facilitated a modification to your RAD to 31 October 2024 and subsequent TDRL transfer date to 1 November 2024.

On 3 October 2024, COMNAVPERSCOM notified ██████████ ██████████ ██████████, INFO COMNAVPERSCOM Millington TN//PERS95/PERS9/PERS-40/PERS-954/TMU//, CNIC Washington DC of the modification. It reflected the new RAD and TDRL transfer dates as 31 October 2024 and 1 November 2024, respectively. The message again explained that the RAD date is the day the member is to be separated from the Navy and TDRL date is the day the member will be retired to TDRL.

You were ultimately released from active duty and transferred to the Temporary Disability Retired List from active duty with an Honorable character of service on 31 October 2024. You were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 5 September 2004 to 31 October 2024 due to Disability, Temporary. Furthermore, block 18 (Remarks) listed the following: "EFFECTIVE DATE OF TEMPORARY DISABILITY RETIREMENT: 01 NOV 2024."

You requested to change your retirement date to 31 October 2024¹. Alternatively, you requested your retirement date be changed to 27 November 2024². The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions.

Further, the Board considered the AO from PERS-95. The AO stated in pertinent part:

Navy Personnel Command (NPC) separation processes do not generally consider any potential changes in VA benefits. Separation processes and timelines are governed by multiple instructions, including Department of Defense Instructions, Secretary of the Navy instructions, and internal NPC policies. It is not the Navy's purview to change processes to advantage or disadvantage a Sailor with the VA. Once it was known [Petitioner] wished to take personal advantage of the date for monetary benefits, PERS-95 should have at that time declined to make any date changes which would have given [Petitioner] a benefit that other Sailors would not normally get, but the promise had already been made, so it was attempted to be honored.

Irrespective of the VA determination, no injustice was done to [Petitioner] aside from a possible human-error misunderstanding of his desired separation and/or retirement date, because his original retirement date was in the month of November 2024, and with the change made by PERS-95 in enclosure (2), his retirement date was still in the month of November.

¹ This change was requested provided relief could be granted on or before 28 November 2025.

² The alternative date would allow you to seek judicial relief, ostensibly, to change your retirement date to 31 October 2025.

The AO concluded, “Because no injustice was committed on [Petitioner], it is recommended that his petition not be granted relief. However, if BCNR determines that relief shall be granted, it is recommended that his separation and retirement dates be administratively shifted to those which were originally calculated and directed by PERS-95 in enclosure (1), in order to reset his dates in keeping with the same instructions, policies, and processes by which all other Sailor separations are managed.”

In response to the AO, you raised issues with the PERS-95 analysis, characterization of you and your commanding officer’s communication with them, reliance on internal policy, failure to understand the VA process, and failure to address the controlling Department of Defense instruction.

After thorough review, the Board concluded the evidence presented was insufficient to merit relief. The Board found no error or injustice with PERS-95’s modification of your separation and retirement dates.

First, the Board found no evidence that you were entitled to an earlier separation and retirement date from that originally proposed by PERS-95. As such, the Board determined that any mistake of fact made by PERS-95 in the process of modifying your separation and retirement dates, based on your request, does not created an error in your record since there is no evidence you were assigned a date in contravention of any statute, regulation, or instruction.

Second, the Board found no injustice with your record based on the assignment of new separation and retirement dates. The Board considered that, although PERS-95 does not generally change separation dates to make them earlier or accommodate service member’s desire to qualify for VA benefits, they attempted to accommodate your separation/retirement date in accordance with their understanding of your request. In their sincere attempt to accommodate you and your commanding officer’s request, they mistakenly assigned you a new separation and retirement dates that did not result in your entitlement to VA benefits effective 1 November 2024. Instead, since your retirement date remained in November 2024 and, consequently, your VA entitlement to benefits remained the same as if you were separated and retired on the originally proposed dates. In weighing the difficult question of whether you suffered an injustice based on this misunderstanding, the Board considered whether you were placed in a worse position with the VA than previous to the modification of your original separation and retirement dates. In reviewing the evidence, the Board found you were not disadvantaged by the modification. Rather, as you pointed out, the injustice alleged is the result of you losing an *additional* month of VA eligibility. As explained in the AO, it is not within the Navy’s purview to consider whether an advantage or disadvantage with the VA would occur when selecting a separation and retirement date. The Board agreed this rationale and thus determined the fact you failed to gain the advantage of additional month of VA benefits does no equate to an injustice with your record. The Board observed the more relevant question was whether you were disadvantaged by the modification from your original separation and retirement dates. Based on the fact your VA entitlements remained unchanged from your originally proposed separation and retirement dates, the Board determined you were not.

