



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

█
Docket No. 2654-21
Ref: Signature Date



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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 8 February 2022. 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 contained in Commander, Navy Personnel Command letter 5730 PERS-91 of 3 November 2021, which was previously provided to you for comment.

You requested for your active duty and reserve points be accurately calculated based on your service record and be provided a full active duty retirement or in the alternative, a pro-rated retirement. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that you did not meet the criteria for sanctuary provision in accordance with Bureau of Naval Personnel Instruction (BUPERINST) 1001.39E and BUPERSINT 1001.39F. Both policies specified that pursuant to Title 10 U.S.C. § 12686, members who have accumulated 18 or more years of active service who are serving on active duty (other than for training) may not be involuntarily released from active duty until eligible for an active duty retirement unless release is approved by Secretary of the Navy. Moreover, the policy indicates Active Duty for Training (ADT) and Annual Training (AT) order for members with more than 18 years of active service do not trigger the sanctuary provision.

A review of your record indicates that on 8 March 2007, Bureau of Naval Personnel (PERS-4911) issued you notification of your impending transfer to the Retired Reserve effective 1 January 2008, because of your two failures of selection for promotion. At the time of this notification, the Navy Reserve Order Writing System reflects you requested and executed ADT orders from 21 October 2006 through 29 April 2007; ADT orders from 9 May 2007 through 29 June 2007; AT orders from 25 July 2007 through 23 August 2007; and ADT orders from 24 August 2007 through 30 September 2007. Thereafter, you returned to a drilling status until your required transfer to the Retired Reserve without pay effective 1 January 2008. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

3/11/2022

