



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

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Docket No. 6084-21
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.

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 13 January 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 Office of Chief of Naval Operations memorandum 7220 Ser N130/21U1488 of 13 October 2021; a copy of which was previously provided to you for comment.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested retroactive approval for retirement under Temporary Early Retirement Authority (TERA) for Fiscal Year 1996 (FY-96) and/or (FY-97). 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 Public Law 102-484, National Defense Authorization Act for fiscal year 1993, provided the Secretary of Defense a force management tool with which to effect the drawdown of military forces and the use of TERA was extended through calendar year 2025. Moreover, Department of Defense Instruction 1332.46 specifies

that TERA is not an entitlement and should be used to retire Service members who are excess to Service short-term and long-terms needs.

A review of your record indicates you submitted TERA packages for FY98 and FY99 consideration; both requests were denied based on the needs of the Navy and reiterated TERA is not an entitlement. Conversely, the Board could not find, nor did you provide evidence of submitting TERA packages for FY96 or FY97. 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,

2/17/2022

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Deputy Director
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