

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 2209-22 Ref: Signature Date



Dear :

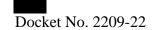
This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found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

A three-member panel of the Board, sitting in executive session, considered your application on 7 March 2023. 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 Judge Advocate General's Corps Officer Community Manager (BUPERS-316) letter of 21 April 2022, and your response to the opinion.

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.

In accordance with SECNAV 1120.5A published on 14 May 1986, (2) Upon appointment in the JAG Corps, a selectee appointed before graduation from law school as a line officer under instruction (designator 1955) shall be awarded one day credit for each day of prior commissioned service performed as a Reserve officer on active duty or in an active status as a member of the Student Program plus constructive service credit computed under paragraph 3a(1).

On 22 November 1996, you signed a Judge Advocate General's Corps Student (1955) Program Service Agreement. Having volunteered for appointment as Ensign, 1955, U.S. Naval Reserve (USNR), in the JAG Corps Student Program you acknowledged that if required, you will attend an extended period of active duty for training in the officer indoctrination course to be convened



between your second and third years of law school and as soon as practicable. Within 12 months of graduation from a law school approved by the American Bar Association and admission to the bar of a Federal court or the highest court of a State of the United States, you will accept a superseding appointment in the JAG Corps Naval Reserve, if such a commission is tendered to you.

On 22 November 1996, you signed an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/20) in the inactive U.S. Naval Reserve as an Ensign with a date of rank 28 October 1996 with a designator code of 1955 (An Unrestricted Line Officer under instruction as a prospective Judge Advocate General's Corps officer).

On 15 June 1997, you attended Officer Indoctrination School, when we will be supported in the control of the co

On 9 May 1998, you received a Juris Doctor degree from the University of

On 19 October 1998, you signed an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/20) in the active U.S. Naval Reserve as an Lieutenant Junior Grade with a date of rank 22 May 1997 with a designator code of 2505 (A Judge Advocate General Corps Officer).

On 18 December 1998, you took the following oath "that I will faithfully perform the duties of counsel in any courts-martial to which I am detailed as counsel or in which I participate as individual defense counsel."

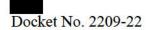
On 1 February 2004, Commanding Officer, Naval Special Warfare Center notified you that the President of the United States approved your appointment in the Regular Navy in the permanent grade of Lieutenant, with a date of rank of 2 January 2004.

In accordance with ALNAV 026/16 published on 27 April 2016 announced FY-17 Active Duty Navy Captain Staff Corps Selections. You were listed under the Judge Advocate General's Corps with a relative seniority number of of 14. seniority number was and seniority number was seniority number was

On 1 June 2017, you were appointed to the rank of

On 5 November 2019, you wrote to the Navy Personnel Command Officer Career Progression Department (PERS-8) that "I respectfully request that my date of rank (DOR) be adjusted to reflect that I am senior on the lineal list to the three Judge Advocate General's Corps (JAGC) officers in my year group who are currently senior to me. I earned more constructive service credit during my time in the Student Program than the other three officers, and I was senior in every other way to all three.

In summary, I respectfully submit that my DOR and lineal number be adjusted so that 1 am senior to the three judge advocates who are currently senior to me. I base this on the fact that I should have received 6 weeks of constructive service credit for serving at Naval Legal



Service Office (NLSO) Southwest, which the other officers did not do; and I was commissioned, attended Officer Indoctrination School (OIS), graduated from Naval Justice School Basic Lawyer Course (BLC), and began my active duty career prior to the other three officers. Thank you for your consideration."

You were transferred to the Retired List with an Honorable character of service and were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 13 October 1998 to 30 September 2022 upon having sufficient service for retirement.

You requested that your date of rank be adjusted to reflect that you are senior on the lineal list of those officers in your year group who were promoted to before you. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertion that you earned more constructive credit during your time in the Student Program, specifically 6 weeks during the summer of 1997 at the NLSO Board concluded that a review of your record indicates you have received the appropriate constructive credit. In accordance with SECNAV 1120.5A, you would be eligible to receive day for day credit for each day of prior commissioned service performed as a Reserve officer on active duty or in an active status as a member of the Student Program, if that service could be substantiated. The Board could not find, nor did you provide, evidence of the 6 weeks of uniformed service as an ensign at NLSO during the summer of 1997. You assert that your statement of service shows your additional reserve service of 28 days accounts for your time at NLSO ; however, this does not match the 6 weeks you are claiming to have served. However, the 28 days listed on your statement of service does align with the training period of service from 15 June 1997 to 25 July 1997 when you attended training at Officer Indoctrination School. Without evidence of the service you are requesting credit for, the Board determined that a change to your record is not warranted. 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.

