



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

█  
Docket No. 2649-22  
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 10 May 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.

On 22 April 1977, you enlisted for 6 years in the U.S. Naval Reserve with an Expiration of Obligated Service (EOS) of 21 April 1983. On 12 August 1977, you entered active duty for 4 years with an End of Active Obligated Service (EAOS) of 11 August 1981.

On 30 November 1987, Executive Officer, █ issued you an Administrative Remarks (NAVPERS 1070/613). The █ Command Fitness Coordinator has reported that you exceed the Navy's health and readiness limits. Specifically you: (X) Exceed the percent body fat requirements; Height: 68.5", Weight: 193, Neck: 16", Waist: 41.5", Percent Body Fat: 29%, Other: Diagnosed Obese (LEVEL II).

On 31 December 1987, Personnel Officer witnessed you signed an Administrative Remarks (NAVPERS 1070/613). You acknowledged having reviewed your enlisted Performance Evaluation Report for the period 1 December 1989 to 30 November 1987, which had been referred to you because of derogatory contents. You did not desire to make a statement.

On 26 May 1989, you reenlisted for 5 years with an EAOS of 25 May 1994.

On 7 April 1992, Commander, ██████████ notified you that you were being considered for an administrative separation from the naval service by reason of convenience of the government due to obesity. If separation is approved by the Bureau of Naval Personnel, it would result in discharge. Furthermore, you notified Commander, ██████████ that you understood that you were being considered for an administrative separation which could result in characterization of discharge as General by reason of convenience of the government due to obesity, and that you were subject to, and may be separated with, a discharge which will reflect the character of your naval service. You initialed that you did not object to this separation.

On 14 April 1992, Commander, ██████████ issued you an Administrative Remarks (NAVPERS 1070/613). He found you Disqualified for duty in submarines by reason of administrative discharge due to convenience of the government due to obesity. The enlisted submarine designator (SS) is hereby removed. ██████████ is not eligible for return to submarine duty at any future date.

On 17 April 1992, Administrative Assistant by direction of Commander issued you an Administrative Remarks (NAVPERS 1070/613). Assigned mark of 2.8 in Military Bearing for failing to meet the Navy's Physical Readiness standards and being separated from the Naval Service due to obesity. Additionally, Personnel Supervisor by direction of Commander issued you an Administrative Remarks (NAVPERS 1070/613). Not Eligible For Reenlistment and assigned a restrictive reenlistment (RE) Code RE-4 by reason of other physical/mental conditions - obesity.

On 17 April 1992, you were honorably discharged for other physical/mental conditions – obesity.

On 23 April 1992, Commander, ██████████ notified Bureau of Naval Personnel of your administrative separation by reason of convenience of the Government due to obesity. Furthermore, that you were discharged on 17 April 1992 with a characterization of service as Honorable.

In accordance with DoD 7000.14-R FMR Volume 7B, Chapter 1. Temporary Early Retirement Authority (TERA) provided the Secretary of Defense a temporary force management tool with which to affect the drawdown of military forces and yet maintain an adequate and effective well-trained military force. TERA provided the authority for voluntary retirement of members on active duty with at least 15 years, but less than 20 years of creditable service. An eligible member of the Armed Forces could have applied for early retirement under the program and receive an annuity equivalent to 2.5 percent of the retired pay base for each year of service completed and a deduction of 1 percent for each year short of 20 years of service. The request was subject to the approval of the Secretary concerned. Drawdown periods were referenced in subparagraph 010301.B. Under TERA, the Secretary of the Military Department concerned could reduce the 20 years of creditable service requirement to as few as 15 years for retirements during the periods of: 31 December 2011 through 31 December 2025, for Regular retirements only; and 23 October 1992 through 1 September 2002, for Regular and non-Regular retirements.

In accordance with NAVADMIN 111/93 of 3 July 1993 this NAVADMIN implemented the Navy FY-94 15 year Early Retirement/Fleet Reserve program for eligible officers and enlisted members. It was not an entitlement but a TERA. TERA offered early retirement at a somewhat reduced monthly stipend to eligible members prior to completing twenty years active service. Officers and enlisted with at least 15 years active duty service between 1 October 1992 and 30 September 1994 may have been eligible for TERA. All enlisted members must have been a Master or Senior Chief Petty Officer in the ratings listed and have had between 17 and 20 years to apply.

You requested a partial retirement and a Navy Commendation Medal. 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 NAVADMIN 111/93 implementing TERA was published on 3 July 1993. You were discharged on 17 April 1992, therefore, you were not eligible for TERA at the time of your discharge. Regarding your request to be awarded a Navy Commendation Medal, the Board for Correction of Naval Records (BCNR) was created by Congress in 1946 to provide a method for correction of errors in the records of current and former Navy and Marine Corps members to avoid the need for private legislation. The statutory authority for the BCNR is codified in 10 U.S.C. § 1552. Under that authority, BCNR may only correct service records based on errors or injustices and may do so only after other avenues of administrative relief have been exhausted. There is no evidence that you submitted a request to CNO awards Branch (DNS-35) prior to your request to this Board. You may contact them at 2000 Navy Pentagon Washington, DC 20350-2000 Email: CNO\_awards.fct@navy.mil Website: <https://awards.navy.mil>.

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,

6/13/2022

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Deputy Director

Signed by: █