



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. 2689-22
Ref: Signature Date

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Dear █ █

This is in reference to your application for correction of your spouse's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your spouse's 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 July 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 spouse's naval record and applicable statutes, regulations and policies.

On 3 May 1959, Subject was found eligible in all respects, except for age, for permanent appointment to Warrant Officer, W-1, in the Naval Reserve in accordance with BUPERSINST 1120.26a dated 19 August 1958. If any future provision is made for waiver of this age limitation, Subject is duly recommended to be granted this appointment.

On 10 August 1961, Chief of Naval Personnel notified Commanding Officer, Naval Reserve Harbor Defense Division 1-1 that Subject was issued a permanent appointment as Chief effective 1 June 1945.

On 29 August 1975, Chief of Naval Personnel issued subject a notification of eligibility for retired pay at age 60.

On 29 August 1975, Chief of Naval Personnel notified Commanding Officer, Naval Reserve Center of Subject's notification of eligibility for retired pay at age 60. Further stating that:

“[t]his is NOT a retirement authorization. Inform subject member that when he desires to be retired he must make written application to the Chief of Naval Personnel for transfer to the Retied Reserve without pay or to the Naval Reserve Retired List with pay, whichever is appropriate, as specified in BUPERSMAN 3860580 or 3860520. To obtain full benefits, retirement action must be completed while he is still a member of the Naval Reserve.

Members of the Naval Reserve who have attained eligibility for Naval Reserve Retired Pay, including attainment of age 60, may not be credited with any service performed after their date of

initial eligibility unless specifically retained in an active status by the Secretary of the Navy pursuant to 10 USC 676. Members not so retained by SECNAV who are participating on the initial date of eligibility for retired pay should be transferred to the Standby Reserve in accordance with BUPERSMAN 1880200.”

On 22 November 1976, Commanding Officer, Naval Reserve Personnel Center notified Subject that his request to be transferred to the Retired Reserve has been approved effective 1 November 1976 in the grade of Chief Boiler Technician but without pay or allowances in accordance with the provisions of title 10, United States Code, Section 1376(a) and 274.

On 13 November 1978, Commanding Officer, Naval Reserve Personnel Center notified Subject that his application for transfer to the Naval Reserve Retired List has been approved by the Secretary of the Navy. Records maintained by the Department of the Navy disclose that Subject’s initial date of eligibility for retirement with pay is 14 October 1978. Subject was transferred to the Naval Reserve Retired List effective 14 October 1978, and concurrently advanced in accordance with BUPERSMAN 3860520 from Chief Boiler Technician to the grade of Warrant Officer (W1) with a total of 4958 points upon which to compute his retired pay.

On 23 August 2009, Subject died.

On 15 August 2020, Defense Finance and Accounting Service—DFAS notified you that their records reflect that Subject was transferred to the reserve retirement list in the grade of Chief Warrant Officer 1 (W-1) effective 14 October 1978.

You requested to have Subject’s rank corrected to Warrant Officer. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertion that he made W-1 in the regular Navy and not the Reserves. However, the Board concluded that Subject’s records indicate that he transferred from the U.S. Naval Reserve to the Retired Reserve without pay effective 1 November 1976 as a Chief Boiler Technician (BTC)/E-7. He was transferred to the Naval Reserve Retired List effective 14 October 1978, and concurrently advanced from Chief Boiler Technician to the grade of Warrant Officer (W1). Subject did not have 20 years of [a]ctive service, therefore, he did not qualify for an active duty retirement. Furthermore, Subject was not promoted to W-1 until he was eligible for retired pay at age 60. Therefore, correction to Subject’s record is not warranted.

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,

8/3/2022

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Deputy Director
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