



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. 4098-22
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.

A three-member panel of the Board, sitting in executive session, considered your application on 14 September 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.

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 DoD 7000.14-R FMR Volume 7A, Chapter 1, advance leave becomes excess leave and requires collection of pay and allowances under the following conditions: Return from a period of leave that was in excess of the number of days of leave and fractions thereof that the member will accrue before the normal expiration of current enlistment or term of active service.

On 30 May 2019, you were issued official retirement orders (BUPERS order: 1509) while stationed in █
█ with an effective date of departure of November 2019.

On 1 July 2019, you submitted Leave Request/Authorization (NAVCOMPT Form 3065) requesting retirement leave from 07:30 13 September 2019 to 23:59 1 December 2019 (80 days). Your request was approved on 13 July 2019.

Your Leave and Earnings Statements (LES) for the period of 1 July 2019 to 31 July 2019 listed a leave balance of 66 days.

On 22 August 2019, you were charged with ordinary leave for the period of 5 August 2019 to 22 August 2019 (18 days).

You were retired with an Honorable character of service and were issued a DD Form 214 for the period of 7 May 2005 to 30 November 2019 upon having sufficient service for retirement.

On 21 January 2020, you were charged with terminal leave for the period of 13 September 2019 to 30 November 2019 (79 days). Furthermore, on 1 October 2019, you brought forward 35 days leave, you earned 5, your leave balance was -23.0 days.

On 23 May 2022, Defense Finance & Accounting Service (DFAS) notified you of your indebtedness to the U.S. Government. Your debt was due to payments received after you entered a no pay status due to retirement as of 30 November 2019. Debt is due to leave you took from 13 September 2019 to 30 November 2019 resulting in a negative leave balance of 23 day(s), which includes a non-accrual of 2 day(s). You are not entitled to pay and allowances during periods of negative leave. If you disagree with the validity or amount of your debt, please contact the pay office, DMPO, or AFAFO that placed you in debt and have them provide our office with proper documentation to alter or cancel your debt. Debt is due to over deduction of federal income tax withholding (FITW) and/or state income tax withholding (SITW) paid in your behalf after separation to the internal revenue service (IRS) and/or state taxing authority. You will receive the benefit of the over deductions when you file your tax return.

You requested that the █ debt due to a negative leave balance be relieved; the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertion that your debt was in error because your November LES would have shown a negative balance vice zero. However, the Board determined that your November 2019 LES was correct to reflect zero leave days because your terminal leave was not run in the system until 21 January 2020. Furthermore, on 1 July 2019, when you submitted your request for terminal leave of 80 days, you only had 66 days of leave in your leave account. You then took 18 days leave in August. You went on terminal leave on 13 September 2019, and by November 2019, your leave account would have been zero and you would have been in an excess leave status. Therefore, the Board concluded that your debt is valid.

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,

9/20/2022

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Deputy Director
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