



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. 5099-22
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 2 August 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.

You requested transfer to the retired reserve with-pay in paygrade Lieutenant/O-3 or Lieutenant Commander/O-4. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that you did not meet the criteria of Title 10 U.S.C. 12731(a)(2) to warrant correction to your record. Specifically, Title 10 U.S.C. 12731 indicates a person is entitled, upon application, to retired pay if the person has performed at least 20 years of service computed under section 12732. A review of your record indicates you completed a period of active duty service from 7 July 1984 through 6 January 1995. Upon discharge from active duty, you were commissioned in the Navy Reserve, however, the Board could not find, nor did you provide evidence of earning the requisite qualifying years of service to garner a non-regular retirement. Additionally, Navy Personnel Command (PERS-911) provided you with notifications to resolve your status in the Naval Reserve on 8 October 1997, 14 November 2000, and 10 December 2003. There is no record of you responding to the correspondence from PERS-911 and as such, you were transferred to the retired reserve (not eligible for retired pay) effective 1 July 2005. Lastly, the Board noted that the Chief of Naval Operations Instruction 1811.3 you referenced pertains to "Voluntary

Retirement and Transfer to the Fleet Reserve of Members of the Navy Serving on Active Duty,” this instruction does not apply to members of the reserve component.

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,

8/11/2022

[REDACTED]

Deputy Director

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