



**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. 6655-22  
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 22 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.

You were discharged 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 6 July 1978 to 24 February 1982 for immediate reenlistment. On 29 December 1989, you were advanced to BM1/E-6.

On 8 March 1991, you received Non-Judicial Punishment (NJP) for violation of Uniform Code of Military Justice Article 92, 128, and 134. Punishment awarded restriction for 45 days, and suspended reduction to E-5 for 6 months.

On 19 April 1993, you received NJP for violation of Uniform Code of Military Justice Article 111. Punishment awarded forfeiture of \$500.00, pay per month times 2 months, and reduction in grade to E-5.

On 15 July 1993, you reenlisted for 3 years with an end of active obligated service of 14 July 1996 as an BM2/E-5. You were transferred to the Fleet Reserve as a BM2/E-5 with an

honorable character of service and were issued a DD Form 214 for the period of 25 February 1982 to 31 July 1998 upon having sufficient service for retirement.

In accordance with OPNAVINST 1811.3 of 17 December 2005, unless retirement in the next inferior grade is directed by SECNAV for an officer or warrant officer under SECNAVINST 1920.6B, then officers, warrant officers, and enlisted members retired voluntarily or transferred to the Fleet Reserve shall be retired in the highest grade satisfactorily held upon completion of the following time-in-grade requirements. COMNAVPERSCOM shall make determinations and recommendations of satisfactory service, considering the factors noted in paragraph 7h.

In considering whether a member served satisfactorily in the current grade held, or in a higher grade, the following factors are considered: (1) Time served in current or higher grade. (2) If a member voluntarily requested retirement or transfer to the Fleet Reserve in the next lower grade and has not fulfilled the required time-in-grade requirements as stated in paragraph 7. (3) Any report of misconduct, moral, or professional dereliction, conduct not in the interest of national security, or conviction by courts-martial. (4) The nature and severity of any misconduct.

On 11 July 2008, Commander, Navy Personnel Command notified you that upon your completion of 30 years of active/inactive duty service or otherwise meeting eligibility requirements, the Secretary of the Navy authorized your transfer to the Retired List of the Regular Navy/Navy Reserve. Per MILPERSMAN 1820-010, we transferred you to the Retired List effective the date indicated below. If you previously served in a warrant/commissioned officer rank or higher enlisted grade than indicated below, please refer to Prior Higher Grade letter.

In accordance with 10 USC section 6334 (Higher grade after 30 years of service: warrant officers and enlisted members) (a) Each member of the naval service covered by subsection (b) who, after December 4, 1987, is retired with less than 30 years of active service or is transferred to the Fleet Reserve or Fleet Marine Corps Reserve is entitled, when his active service plus his service on the retired list or his service in the Fleet Reserve or the Fleet Marine Corps Reserve totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Navy. (b) This section applies to—(1) warrant officers of the naval service; (2) enlisted members of the Regular Navy and Regular Marine Corps; and (3) reserve enlisted members of the Navy and Marine Corps who, at the time of retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, are serving on active duty.

You requested retired pay based on E-6 vice E-5. 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 on 29 December 1989, you were advanced to BM1/E-6 and on 19 April 1993, you were subject to the second NJP. As a result, you were reduced in grade to E-5. In accordance with OPNAVINST 1811.3, unless retirement in the next inferior grade is directed by SECNAV for an officer or warrant officer under SECNAVINST 1920.6B, then officers, warrant officers, and enlisted members retired voluntarily or transferred to the Fleet Reserve shall be retired in the highest grade satisfactorily held upon completion of the following

time-in-grade requirements. The Board determined that you did not serve satisfactorily in the grade of E-6 long enough to be retired in that grade.

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,

10/4/2022

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Deputy Director

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