



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. 6868-22
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 7 March 2023. 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. In addition, the Board considered the advisory opinion by the Office of Legal Counsel (BUPERS-00J) letter of 20 January 2022 and Navy Personnel Command memorandum 5420 PERS-836/602 of 19 October 2022, which was previously provided to you for comment.

On 19 November 1992 you enlisted in the U.S. Naval Reserve for 8 years with an expiration of obligated service of 18 November 2000. On 24 November 1992 you entered active duty for 4 years with an end of active obligated service (EAOS) of 23 November 1996. On 8 October 1996, you reenlisted for 4 years with an EAOS of 7 October 1998. On 4 November 1996, you signed an agreement to extend for 1 month with a Soft EAOS of 7 November 1998.

You were released from active duty and transferred to the Navy Reserve 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 24 November 1992 to 7 November 1998 upon completion of required active service. On 23 November 1999 you entered another period of active duty and were released from active duty and transferred to the Navy Reserve with an honorable character of service and were issued a DD Form 214 for the period of 23 November 1999 to 14 July 2000 upon completion of required active service.

On 13 September 2000 you accepted duty in the enlisted Training and Administration of the Reserve (TAR) Program and understood that you were obligated for a period of 48 months active duty from the date of recall/conversation. On 2 June 2004 you reenlisted in the active U.S. Naval Reserve for 4 years with a new contract expiration date of 1 June 2008. On 23 May 2008 you reenlisted in the active U.S. Naval Reserve for 5 years with a new contract expiration date of 22 May 2013. On 6 November 2012 you signed an agreement to extend enlistment for 9 months with a new contract expiration date of 22 February 2014.

In accordance with 10 U.S.C. section 1176, a Reserve enlisted member serving in an Active Status who is selected to be involuntarily separated (other than for physical disability or for cause), or whose term of enlistment expires and who is denied reenlistment (other than for physical disability or for cause), and who on the date on which the member is to be discharged or transferred from an active status is entitled to be credited with at least 18 but less than 20 years of service computed under section 12732 of this title, may not be discharged, denied reenlistment, or transferred from an active status without the member's consent before: If as of the date on which the member is to be discharged or transferred from an active status the member has at least 19, but less than 20, years of service computed under section 12732 of this title—(A) the date on which the member is entitled to be credited with 20 years of service computed under section 12732 of this title; or (B) the second anniversary of the date on which the member would otherwise be discharged or transferred from an active status.

On 13 February 2013 you were subject of a non-judicial punishment for two counts for violations of article 112a (Wrongful use, possession, etc. of controlled substances (Cocaine and Parker's Paste)).

On 1 May 2013 ██████████ ██████████ (senior member of the Administrative Board) notified the Commanding Officer, Naval Air Station, Joint Reserve Base, ██████████ of the Record of Proceedings for your Administrative Separation Board. The Board found by a vote of 3-0 that the preponderance of the evidence supported your separation with an other than honorable (OTH) characterization.

On 23 May 2013 the Commanding Officer, Naval Air Station, Joint Reserve Base, ██████████ notified the Commander, Navy Personnel Command (PERS-823) regarding your administrative separation processing. Summary of military and civilian offences was misconduct-drug abuse, positive for cocaine on urinalysis in December 2012. The Administrative Board found that evidence supports the basis. The Board recommended separation with an OTH type of discharge.

You were discharged with an OTH character of service and were issued a DD Form 214 for the period of 2 June 2004 to 8 January 2014 for Misconduct (Drug Abuse).

On 21 January 2020, Naval Discharge Review Board (NDRB) voted to upgrade your character of service to general (under honorable conditions).

You requested to be retired with pay as of 8 January 2014. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your

assertion that your statement of service does not contain your TAR service. The Board concluded that your updated statement of service contains your active duty TAR service. However, because you were in an active duty status you would have only been eligible for an active duty retirement. You do not qualify for an active duty retirement because you did not complete 20 years of active duty service. Moreover, you were administratively separated for misconduct-drug abuse on 8 January 2014. In accordance with 10 U.S.C. section 1176 your separation due to misconduct made you ineligible to have been retained until the date on which you would have been entitled to be credited with 20 years of *active* service. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

As for your statement that you have not received an updated DD Form 214 after NDRB voted to upgrade your character of service to general (under honorable conditions). You may request said DD Form 214 by contacting the National Personnel Records Center:

Website: <https://www.archives.gov/personnel-records-center>

National Personnel Records Center
1 Archives Drive
St. Louis, MO 63138

Telephone: 314-801-0800

Fax: 314-801-9195

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, _____

3/24/2023

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Deputy Director

Signed by: █