



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. 7057-22
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 28 February 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 also considered the advisory opinion by Commander, Navy Personnel Command (NPC) (PERS-9) of 8 November 2022, which was previously provided to you. You were afforded an opportunity to submit a rebuttal, but did not do so.

On 15 April 1970 you enlisted in the U.S. Naval Reserve (USNR) for 6 years with an expiration of obligated service of 14 April 1976.

You were released from active duty and transferred to the USNR with an honorable character of service and were issued a Report of Separation from Active Duty (DD Form 214N) for the period of 12 October 1970 to 9 August 1973.

You were released from active duty and transferred to the USNR 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 7 March 1986 to 28 April 1986 due to USNR expiration of term of active obligated service.

In accordance with Title 10 U.S.C. section 12731 (age and service requirements), (a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—(1) is at least 60 years of age; (2) has performed at least 20 years of service computed under section 12732 of this title; (3) performed the last eight years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve; and (4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

On 15 June 1991, Bureau of Naval Personnel notified you that this letter is to inform you that you have reached High Year Tenure (HYT) for Calendar Year (CY) 1992. As you have probably been briefed, HYT is a personnel management program designed to reduce advancement stagnation and control rate manning. Unless specific actions are initiated by you, your service in the Selected Reserve will be terminated on 31 December 1992. The applicable instruction for the HYT process is OPNAVINST 1160.7A.

The CY-92 HYT waiver review board will meet in February 1992. All E-4 and above personnel affected by HYT for CY-92 may request a HYT waiver. HYT waiver applications should be received at Bureau of Naval Personnel (Pers-913) no later than 1 November 1991.

Individuals reaching HYT for CY-92 who do not submit a HYT waiver request or who are not granted a HYT waiver may remain in the Selected Reserve until 31 December 1992. At that time personnel must then execute one of the following options: Request retirement. Transfer to the Individual Ready Reserve. Request assignment in the Voluntary Training Unit.

Advancement during CY-92 may alter your HYT status.

On 22 January 2021 the Commander, NPC notified you that your application for retired pay per your application of 22 December 2019 is, unfortunately, not approved. 10 U.S.C. section 12731 delineates the qualification requirements for retired pay at age 60. Primary among these requirements is the completion of at least 20 years of qualifying service. Qualifying service is credited as indicated in section IIB of NRPC 1820/78.

A review of Statement of Service indicates that you have not completed 20 years of qualifying service.

On 9 November 2022 NPC issued a statement of service for Navy Reserve Retirement that listed 15 years, 6 months, and 4 days of qualifying years of service and 2,063 of total retirement points creditable for pay.

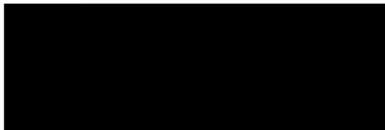
You requested an audit of duty for retirement; the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertion that you have 17 years of creditable time as a Reserve and three years active duty. However, the Board concluded that in accordance with your statement of service, you have a total of 15 years, 6 months, and 4 days of qualifying years of service. In accordance with Title 10 U.S.C. section

1273, you must have 20 years of qualifying service to be eligible for retired pay at age 60. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

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,

3/7/2023



Deputy Director

Signed by: ██████████