



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No. 7126-22  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 5 December 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 as well as the 17 October 2022 Advisory Opinion (AO) provided by the Navy Personnel Command (PERS-9). The AO was provided to you on 19 October 2022. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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.

The Board carefully considered your request for reinstatement in the Navy, reflecting no break in service to allow continuation in an active status of the Navy Reserve. The Board considered your contention that reinstatement would allow you to continue to serve for 20 qualifying years towards retirement in accordance with SECNAV Instruction 1920.7C.

The Board, however, substantially concurred with the AO. In this regard, the Board noted that the Navy authorized you for continuation in an active status to allow consideration for promotion for a third time. The Board noted that you failed to select for promotion in Fiscal Years 2020, 2021, and 2022 making you ineligible for continuation. Further, the Board noted that, having less than 18 years of total active service, you were not within two years of qualifying for

retirement and continuation is not authorized for any Reserve lieutenant who has three or more failures of selection to lieutenant commander.

In regards to your contention that the Navy failed to follow Department of the Navy (DON) policies and instructions—specifically, per para 2.a. of SECNAVINST 1920.7C, the Board noted that this is specific to Active Duty List Officers and is not applicable in your case. On 12 March 2022, Navy Personnel Command disapproved your continuation, and on 1 April 2022, you were discharged with an honorable characterization of service. The Board determined that the Navy followed applicable law and regulations in determining your suitability for continuation and concluded that your contention that the Navy failed to follow DON policies and instructions is without merit.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

1/4/2023

