

DEPARTMENT OF THE NAVY

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

> Docket No. 8333-22 Ref: Signature Date

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 14 June 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 opinions by Navy Pay and Personnel Support Center memorandum 7220 N1 of 9 March 2023 and Office of the Chief of Naval Operations memorandum 7220 Ser N130/23U558 of 4 May 2023, which were previously provided to you. You were afforded an opportunity to submit a rebuttal, but did not do so.

You requested to establish entitlement to Continuation Pay (CP). 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 eligibility criteria to receive CP in accordance with Military Personnel Manual (MILPERSMAN) Article 1810-081 and Navy Administrative message 172/20. Specifically, the policies indicate Sailors who enrolled in Blended Retirement System (BRS) are eligible to receive mid-career CP at 12 years of service (YOS) in exchange for an agreement to serve four additional years of obligated service, to run concurrent with any existing service obligation. For the purpose of CP eligibility, 12 YOS is computed from the member's Pay Entry Base Date (PEBD). MILPERSMAN 1810-081 further specifies a Service member who elected CP, but does not complete the obligated service, will have the unearned portion of CP recouped. However, members who are unable to complete the obligated service due to a disability, not caused by misconduct, will not have to repay the unearned portion.

A review of your record indicates your PEBD is 24 March 2009. On 17 January 2018, you enrolled into the BRS. Your window to elect CP opened on 24 September 2020. Per your Abbreviated Medical Evaluation Board Report and NPC (PERS-454) confirmation, you were placed on limited duty on 31 October 2020. Your last day to elect CP was on 23 March 2021 and you were released from limited duty on 26 April 2021.

The Board determined your limited duty status did not disqualify you from electing CP prior to reaching 12 YOS. Furthermore, on 13 March 2023, you were emailed a request to acknowledge your PEBD, date of CP eligibility, the 4-year service obligation, and the method you would like to receive CP, if the Board granted you relief. You had 30-days to respond to this request; conversely, you failed to respond. Lastly, the Board noted that you did not expound on how your limited duty status prevented you from requesting CP prior to reaching 12 YOS. In this connection, the Board substantially concurred with the comments contained in the advisory opinions.

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,

