



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

██████████
Docket No. 1894-23
Ref: Signature Date

████████████████████
██████████
████████████████

Dear ██████████

This letter 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 that the evidence submitted was 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 18 April 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.

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.

You previously applied to this Board for a change to your paygrade and were denied on 21 June 2010. As part of this decision, the Board considered an advisory opinion (AO) from Navy Personnel Command.

The Board carefully reconsidered your request for advancement to E-8, as well as your request to have your Enlisted Surface Warfare Pin (ESWS) added to your DD Form 214, Certificate of Release or Discharge from Active Duty. You contend that because your DD Form 214 shows that you received four Good Conduct Medals, it is proof that you served more than 16 years. The Board also considered your claim that because you were selected to the Limited Duty Officer Program, it should have been assumed that you would be promoted to E-8.

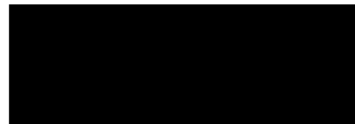
In regards to your request to be advanced to E-8, the Board substantially concurred with the previous AO and Board decision. In this regard, the Board noted that pursuant to BUPERSINST 1430.16D, the Total Active Federal/Military Service (TAFMS) requirement for promotion to E-8 is 16 years. The AO noted that you voluntarily separated from the Navy on 15 December 1991 with less than 16 years of active service. Although your DD Form 214 reflects that you received four Good Conduct Medals, the Board determined this was, more likely than not, a scrivener's error. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption.

In regards to your request to have your ESWS added to your DD Form 214. The Board noted that you must first exhaust your administrative remedies by contacting Navy Personnel Command. Thus, while the Board thanks you for your Honorable service to this country, they concluded that there is no probable material error, substantive inaccuracy, or injustice warranting a change to your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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 the submission of new matters, which will require that you 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,

5/12/2023

A large black rectangular redaction box covering the signature of the Deputy Director.

Deputy Director

Signed by: 