



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. 2383-23
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 19 October 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 opinions (AOs) contained in Navy Personnel Command memorandum 5420 PERS-836/053 of 26 May 2023 and Bureau of Naval Personnel (BUPERS-00J) letter of 11 July 2023, copies of which were previously provided to you for comment. Although you were provided an opportunity to respond to the AOs, you chose not to do so.

You requested advancement to E-9 in the Fleet Reserve. 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 Department of Defense Instruction 1332.20 and Chief of Naval Operations Instruction (OPNAVINST) 1811.3A specify the time-in-grade (TIG) requirement for approval transfers to the Fleet Reserve in pay grade E-9 requires a minimum of two years of active duty in grade. Additionally, OPNAVINST 1811.3A outlines the factors considered when determining a member served satisfactorily in the current grade held, or in a higher grade. These factors include time served in current or higher grade, if a member voluntarily requested retirement or transfer to the Fleet Reserve in the next lower grade and has not fulfilled the required TIG requirements, and any conviction by court-martial, report of

misconduct, moral, or professional dereliction, or conduct not in the interest of national security, and the nature and severity of any misconduct.

A review of your record indicates you were subject to non-judicial punishment on 20 August 2013, that resulted in a punitive letter of reprimand, recommendation to be detached for cause, and immediate separation from the Navy as a probationary officer. While pending separation, on 1 October 2013, you automatically advanced to permanent enlisted pay grade of E-9 while in a temporary Limited Duty Officer status. On 19 May 2014, you were detached for cause due to misconduct. On 8 April 2015, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) directed you be reverted back to permanent enlisted status in pay grade E9 with an under Honorable conditions (General) characterization of service. Further, it was directed that you be authorized to reenlist "for the sole purpose of transfer to the Fleet Reserve in pay grade E8 with an Honorable characterization of service." Thereafter, you were reverted to pay grade E-9, effective 1 July 2015, released from active duty and transferred to the Fleet Reserve on 31 July 2015, and issued DD Form 214, Certificate of Release or Discharge from Active Duty reflecting pay grade E-9. On 1 August 2015, you were gained to the Fleet Reserve and your retirement began based on E-8 pay.

After thorough review, the Board concluded insufficient evidence of error or injustice exists to warrant a change in your record. In making this finding, the Board substantially concurred with the comments contained in the AOs. Specifically, the Board agreed your record reflects evidence of misconduct and you did not complete 2-years TIG in pay grade E-9. Therefore, the Board concluded that you were appropriately transferred to the Fleet Reserve in the paygrade of E-8. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

11/1/2023

