



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. 4331-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 10 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.

On 11 February 2021, you submitted Leave Request/Authorization (NAVCOMPT Form 3065) requesting separation/retirement leave from 07:30 25 February 2021 to 23:59 28 April 2021 at █. Your request was approved by cognizant authority on 11 February 2021. On 12 March 2021, you were issued official retirement orders (BUPERS order: 0711) while stationed in █ with an effective date of departure of April 2021. You were to proceed to home of selection: HOS: Deferred with an effective date of retirement of 28 April 2021. You were transferred to the Temporary Disability Retired List 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 21 April 2003 to 27 April 2021 due to disability, temporary.

Defense Finance and Accounting Service (DFAS) HUNT system shows your service entry date is 21 October 2002, your retirement date is 28 April 2021, and Pay Entry Base Date is 21 April 2003.

On 17 May 2021, your Master Military Pay Account (MMPA) shows that your basic pay stopped effective 27 April 2021. Furthermore, your leave balance brought forward was 50.5. You earned 17.5, used 70.0 with a leave balance for -2.5 days (Not accrued 0.5). Note: you were charged leave for the period of 25 February 2021 to 27 April 2021 (62 days), and 12 February 2021 to 19 February 2021 (8 days).

On 3 January 2023, a Physical Evaluation Board (PEB) found you unfit and recommended you change from Temporary to Permanent Disability Retirement with 40% combined disability rating. Additionally, your disability was incurred while entitled to receive basic pay, did not occur during a period of

unauthorized absence, the disability is not the result of intentional misconduct or willful neglect. The disability did occur after 14 September 1978. The disability did not result from a combat related injury as defined by Title 26 U.S. Code Section 104(b)(3).

On 24 April 2023, DFAS-IN/DEBT and CLAIMS notified you that debt is-due to leave you took from 25 February 2021 to 27 February 2021 resulting in a negative leave balance of 2.5 day(s) which includes a non-accrual of 0.5 day(s). You are not entitled to pay and allowances during periods of negative leave. If you disagree with the validity or amount of your debt, please contact the pay office, DMPO, or AFAFO that placed you in debt and have them provide them with proper documentation to alter or cancel your debt.

The debt is due to an end of month payment of \$3,684.03 dated 30 April 2021. This payment was for 15 days. Due to your date of separation, you were only Entitled to 12 days. If you disagree with the validity or amount of your debt, please contact the pay office, DMPO, or AFAFO that placed you in debt and have them provide our office with proper documentation to alter or cancel your debt.

Your debt is due to the deferred collection of all or a portion of your social security tax from September through December 2020. When you separated, the deferred taxes you owed were not fully collected, and a debt was established. The government paid the deferred social security taxes to the Internal Revenue Service (IRS) on your behalf, and therefore, you owe a debt for the amount paid.

You requested remission of debt, the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertion that you should not be at fault for administrative error charged against you for retirement paperwork that took 20 days to be filed which then caused this debt. However, the Board concluded that you are entitled to receive your retired pay effective 28 April 2021 and although it is not your fault that your strength loss was delayed, you continued to receive active duty pay you were not entitled to. Furthermore, the leave you took was in excess of the leave you had earned. The Board determined that your debt is valid and that no change to your record is warranted.

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,

10/13/2023

