



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. 8440-23
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 5 March 2024. 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 10 June 1952, you enlisted in the U.S. Naval Reserve until 10 January 1956.

On 29 June 1953, you were admitted as midshipman at the U.S. Naval Academy (USNA) and graduated on 7 June 1957 and commissioned an Ensign in the U.S. Navy.

In accordance with Title 10, U.S.C. section 101(22) published in 1959, "Active duty" means full-time duty in the active military service of the United States. It includes duty on the active list, full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned.

You were discharged with an Honorable character of service and were issued an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214N) for the period of 7 June 1957 to 30 June 1967 due to BUPERS order 545,047832 of 9 May 1967.

On 10 May 1982, Commanding Officer, Naval Reserve Personnel Center notified you via Commanding Officer, █ that, "[y]our request to be transferred to the Retired Reserve has been approved.

You are therefore transferred to the Retired Reserve in accordance with Title 10, U.S. C. Sections 1376(a) and 274 effective 1 June 1982 as a Captain but without pay or allowances authorized by Title 10, U.S.C, chapter 67. Your certificate of transfer to the Retired Reserve is forwarded as enclosure (1).”

On 7 March 1988, Commander, Naval Military Personnel Command notified you that, “In response to your letter of 29 July 1987, your retirement point record has been corrected to show 4818 retirement points vice 4748 previously shown on your statement of service of 5 February 1985 and 25 years, 0 months and 24 days of qualifying service vice 25 years, 01 months and 13 days.

Naval Academy Midshipman is not creditable after 3 March 1913. While a member of the Naval Academy you are in an inactive status in the Naval Reserve. In order to be credited with retirement points from 28 June 1953 to 6 June 1957, you must have accrued at least 50 retirement points to be a qualifying year. Therefore, you have been credited with membership points only from 10 June 1952 to 6 June 1957 because of no reserve participation.

By copy of this letter, the Commanding Officer, Naval Reserve Personnel Center, Code 25, has been advised to correct your retirement points to show 4818 and years of qualifying service to 25 years, 0 months and 24 days.”

On 13 November 1989, Naval Military Personnel Command notified the Board that, “[you] enlisted in the United States Naval Reserve on 10 June 1952. [You were] later appointed and served as a midshipman at the [USNA] from 29 June 1953 until [you were] commissioned as an ensign in the United States Navy on 7 June 1957. On 23 November 1982, [you] requested that [your] service record be corrected to reflect that [you were] not discharged from the Naval Reserve incident to [your] appointment to the Naval Academy. [Your] request was approved by the Assistant Secretary of the Navy on 15 February 1983 and [your] record has been corrected as [you] requested. The record currently reflects that [you were] not discharged from the Naval Reserve on 28 June 1953, but rather was released from active duty and continued as a member of an inactive reserve component until 6 June 1957, the day prior to [your] commissioning as an officer in the U.S. Navy. [You] now request reserve drill point credit for the time [you] served in training while attending the Naval Academy.

[Your] active service at the USNA was performed as a midshipman on active duty. The training [you] received at the Naval Academy, although defined as active duty, was not active duty in [your] status as an enlisted member of the Naval Reserve, but was active duty in [your] status as a midshipman in the United States Navy. While serving as a midshipman, [you were] entitled to and did receive active duty midshipman pay, wore the uniform of a midshipman, and was ordered and ordered others to perform duties consistent with the various midshipman grades in which [you] served during [your] four years at the Academy.

Thus, except for the 15 points per year which have been credited to [you] for the years in question, [you are] not entitled to any additional retirement points for the time [you] served at the U.S. Naval Academy from 29 June 1953 to 6 June 1957. Since this is a legal conclusion,

[you] may refer this issue to the Comptroller General of the United States who has the authority to make final pay determinations on behalf of the United States. We perceive no error or injustice warranting change in [your] service record as it is currently constituted.”

You requested the correction of your service record to credit you with having served four years on active duty while attending the USNA from June 1953 to June 1957, the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that, “[t]he BCNR has corrected the military record of my classmates and others, who entered the U.S. Naval Academy as enlisted reservists and graduated, with four years' active duty service while at the Naval Academy. The Board, however awarded me four years of Naval Reserve service credit, under the exact same circumstances the Board granted relief to others. I am re-submitting DD Form 149, requesting correction of this injustice. BCNR Docket No. 1336-82 dated 10 June 1982, provided to me by my classmate, is a well-written, clear, and just accounting by the BCNR of the history and requirements for applying for active-duty service credit while at the U.S. Naval Academy.” However, the Board concluded that the BCNR decision letter for Docket No. 1336-82 that you provided in support of your current request is nearly identical to the BCNR decision letter for Docket No. 6675-82 that you received for your request of 23 November 1982. Each BCNR recommendation was to show the Petitioner was not discharged or considered to have been discharged upon appointment as a midshipman but was continued as a member of a reserve component until discharged on the day prior to the day he accepted his commission in a regular component of the armed forces. Therefore, it appears that you were granted the same relief as your similarly situated classmate. Although your service while a Midshipman at the USNA has been credited to you for basic pay purposes, it is not considered active service and the Board determined that there is no error or injustice warranting a change to your record. In this connection, the Board substantially concurred with the comments contained in the advisory opinion provided by Naval Military Personnel Command on 13 November 1989.

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,

3/8/2024

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Deputy Director

Signed by: █