



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

██████████
Docket No. 474-24
Ref: Signature Date

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██████████
██████████

Dear Petitioner:

This 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 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 9 February 2024. The names and votes of the panel members 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 the 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.

You enlisted in the Marine Corps under a reserve option contract and, upon completion of your required active service, were honorably discharged on 31 May 1996 into a reserve status for drill. You submitted a request for conditional release on 2 November 2001, which was approved and valid until 7 January 2002. In October 2001, your Basic Individual Record documented that your mandatory drills would end effective 26 December 2001, and your last recorded date of drill was 4 November 2001. A memo from the Army on 5 December 2001 indicates an intent that you would be appointed to the grade of O-2 in the Army with an effective date of 8 January 2002. Additionally, on 14 December 2001, Army Personnel Command issued a temporary report date of 8 January 2001. However, there is also an order to active duty issued by Army Personnel Command with a reporting date of 12 May 2002. Subsequently, the Marine Corps issued your certificate of Honorable discharge from the Marine Corps Reserve with an effective date of discharge of 16 August 2003.

The Board carefully weighed all available evidence with respect to your desire to correct the date of your discharge from the Marine Corps Reserve and your contention that the overlapping dates between your discharge from the Marine Corps Reserve, which you believe should be 7 January

2002, and your appointment to a commissioned grade in the Army, on 8 January 2002, has complicated the processing of your retirement from the Army. In support of your request for correction of this error, you submitted a copy of your Honorable discharge certificate from the Marine Corps Reserve which reflects your purported date of discharge, recent Permanent Change of Station orders, the orders from Army Personnel Command regarding your initial appointment and orders to active duty, and the approval of your conditional release.

The Board identified from the evidence you submitted clearly indicates that you transferred from the Marine Corps Reserve into a commissioned status in the Army. The Board found that the date of 16 August 2003, identified as your discharge from the Marine Corps Reserve, appears to be erroneous. However, the Board observed that the evidence you submitted in support of the correct date of your appointment into the Army reflects merely your anticipated temporary report date of 8 January 2002, with an order to active duty of 12 May 2002, rather than your official date of appointment.

To avoid a potential gap in service, the Board found that your definitive date of discharge from the Marine Corps Reserve should be the day before you first officially accepted your appointment to a commissioned grade in the Army. The Board notes that this date would be documented by you Oath of Office (DA Form 71) or a similar record identifying the actual date of acceptance of your appointment, rather than the date you were ordered to report to accept your appointment, which might have shifted for any number of reasons. Absent concrete evidence of the actual date of your appointment into the Army, the Board concluded that the evidence you submitted for consideration is insufficient to guarantee the exact discharge date required for the Board to issue a correction. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In light of the potential impact this probable error may have with respect to your retirement, the Board determined that any request you submit for reconsideration of this decision shall receive an expedited review.

You are entitled to have the Board reconsider its decision upon the 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 is attached 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,

3/1/2024

