



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. 1535-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 26 June 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, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo). The Board also considered an advisory opinion (AO) from Navy Personnel Command (PERS-312), dated 29 April 2024.

You enlisted in the Navy Reserve on 24 November 1970. On 20 November 1971, you were transferred to active duty Navy. On 2 November 1973, you were released from active duty with an Honorable discharge, the rank of BM3/E-4, and an RE-1 reenlistment code. On 16 May 1976, while serving in the Navy Reserve, you were promoted to BM2/E-5. On 23 November 1976, you were discharged from the Navy Reserve with an Honorable characterization of service and issued a record of discharge from the Navy Reserve (NAVPERS 1070/615), dated 23 November 1976.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to correct the spelling of your last name and change your rank to BM2/E-5 on your on your Certificate or Release or Discharge from Active Duty

(DD Form 214). For purposes of clemency and equity consideration, the Board noted you provide a copy of your DD Form 214.

As part of the Board's review, Navy Personnel Command (PERS-312) reviewed your request and provided the Board with an AO.

A complete review of Subject Named Member's (SNM) Official Military Personnel File (OMPF), corporate data, and the document provided was conducted. The review revealed SNM's DD214 has last name spelled [redacted], which is in error. SNM was advanced to BM3/E4 on 1 May 1973 and was released from active duty on 2 November 1973. SNM was advanced to BM2/E5 on 16 May 1976 while affiliated with USNR and is reflected on his Record of Discharge from the U.S. Naval Reserves (NAVPERS 1070/615) dated 23 November 1976. Recommend disapproval of rank/paygrade. A Correction to DD Form 214 (DD 215) will be issued by this office to correct spelling of SNM's name.

Based on the corrective action taken by Navy Personnel Command, the Board did not consider your request to change your name on your DD Form 214.

Regarding your request to change your paygrade on your DD Form 214, after thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The AO noted that you were promoted to BM3/E-4 while on active duty, which is correctly displayed on your DD Form 214. Your promotion to BM2/E-5 occurred while you were serving on reserve duty and is correctly displayed on your record of discharge from the Navy Reserve. Please keep in mind that DD Form 214s are designed to capture periods of active duty and document your status upon your release from active duty. In your case, your paygrade was correctly documented as BM3/E-4.

Therefore, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. 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,

7/10/2024

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