



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

█  
Docket No. 3754-24  
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 23 July 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. In addition, the Board considered the advisory opinion contained in Office of Legal Counsel (PERS-00J) letter of 17 May 2024 and your response to the opinion.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 14 December 2005, you enlisted in the U.S. Naval Reserve for 8 years with an Expiration of Obligated Service of 13 December 2013.

On 17 April 2006, you entered active duty for 4 years with an End of Active Obligated Service (EAOS) of 16 April 2010 and Soft EAOS (SEAOS) of 16 April 2012.

In accordance with DoD 7000.14-R FMR, Volume 7A, Chapter 1, “[d]o not use any service that is not listed as creditable service to compute a basic pay date. The following list includes a few

types of service that are not creditable: For an officer, the time served while attending a military service academy including the U.S. Merchant Marine Academy.”

In accordance with 10 U.S.C. §971. (Service credit: officers may not count service performed while serving as cadet or midshipman); “(a) Prohibition on Counting Enlisted Service Performed While at Service Academy or in Navy Reserve.—The period of service under an enlistment or period of obligated service while also performing service as a cadet or midshipman or serving as a midshipman in the Navy Reserve may not be counted in computing, for any purpose, the length of service of an officer of an armed force or an officer in the Commissioned Corps of the Public Health Service.

(b) Prohibition on Counting Service as a Cadet or Midshipman. In computing length of service for any purpose, service as a cadet or midshipman may not be credited to any of the following officers: (1) An officer of the Navy or Marine Corps. (2) A commissioned officer of the Army or Air Force. (3) An officer of the Coast Guard. (4) An officer in the Commissioned Corps of the Public Health Service.

(c) Service as a Cadet or Midshipman Defined. In this section, the term “service as a cadet or midshipman” means— (1) service as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or (2) service as a midshipman at the United States Naval Academy.”

In accordance with BUPERSINST 1900.8C published on 29 September 2008, “[t]he DD 214 will be issued for enlisted personnel on active duty who fall under one of the following categories:

Appointed midshipmen, U.S. Navy.

Midshipmen and Cadets. The DD 214 will be prepared and issued at time of release to those midshipmen and cadets, including those serving concurrently as enlisted members, at the Naval Academy.”

On 28 April 2008, you signed an agreement to extend enlistment for 2 months with a SEAOS of 16 June 2012 in order to OBLISERV until June 2012 for Naval Academy orders.

In accordance with your Statement of Service, you served on active duty from 17 April 2006 to 1 July 2008.

On 29 May 2012, you signed an Officer Appointment Acceptance and Oath of Office (NAVPERS 1000/4) in the active U.S. Navy as an Ensign with a date of rank 29 May 2012 with a designator code of 1160 (Unrestricted Line Officer billet for an officer in training for Surface Warfare qualification).

You requested to receive service credit for your time served in the United States Naval Academy (USNA) as well as backpay for the 12 years of commissioned service where your Pay Entry Base Date was incorrect, the Board in its review of your entire record and application, carefully

weighed all potentially mitigating factors, to include your assertions. The Board determined that on 17 April 2006, you entered active duty and served on active duty until 1 July 2008 when you entered the USNA. You assert that your time after starting your enlisted contract, where your enlistment was extended through a USNA graduation date, should count while you were at the Naval Academy. In accordance with 10 U.S.C. §971, in computing length of service for any purpose, service as a cadet or midshipman may not be credited to an officer of the Navy. Additionally, BUPERSINST 1900.8C states that the DD 214 will be issued for enlisted personnel on active duty who are appointed midshipmen, U.S. Navy. The Board determined that you were not on active duty when you entered the USNA, and the law is clear that service as a cadet or Midshipman cannot be used to compute length of service for any purpose. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

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,

7/29/2024

