



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

██████████  
Docket No. 5133-24  
Ref: Signature Date

████████████████████  
████████████████████  
████████████████████

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 19 December 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 Assistant Commander, Navy Personnel Command, Career Progression (PERS-8) memorandum 1910 PERS-8 of 31 July 2024 and your response to the opinion.

On 19 December 2005, you reenlisted for 6 years with an End of Active Obligated Service (EAOS) of 18 December 2011. On 14 December 2009, you signed an agreement to extend enlistment for 14 months with an EAOS of 19 February 2013 in order to incur sufficient obligated service to execute BUPERS order ██████████ dated 10 September 2009.

In accordance with NAVADMIN 129/11, (FY12 QUOTA-BASED ENLISTED RETENTION BOARD), published on 14 April 2011, Unprecedented retention and reduced attrition rates across the Navy have resulted in a requirement to rebalance the force. The purpose of this board is to reduce overmanning in ratings projected to be over 103% manned in FY12.

“Eligibility. Personnel that meet all of the following criteria as of 1 October 2011 will be reviewed by the FY12 Quota-Based Enlisted Retention Board for active component enlisted personnel: a. paygrades e4 through E8. b. At least 7 years of active service computed from their active-duty service date. c. Less than 15 years of active service. End of active obligated service

as extended ("soft" EAOS, or SEAOS) of 1 October 2012 or later (EAOS plus any non-operative extension). e. Be in one of the following 31 overmanned ratings..."

Note: IT was not listed.

"The following ratings will accept applications for conversion...IT...."

On 3 November 2011, ██████████ issued you Administrative Remarks (NAVPERS 1070/613) with the subject: "Physical Fitness Assessment Failure With Adverse Action Administrative Counseling/Warning." You are not being retained in the naval service; however, the following deficiencies in your performance and or conduct are identified:

"Failure to meet body composition assessment standards. Date of body composition assessment: 10/24/2011..."

This counseling/warning entry is made to afford you an opportunity to undertake the recommended corrective actions. As stated above, your failure to meet Physical Readiness Program standards may result in adverse administrative actions. This counseling/warning entry is based upon known failures-in your compliance with the Physical Readiness Program. No additional written notification need be issued to execute the administrative actions specified in this document."

On 20 November 2011, your Reporting Senior (RS) signed a regular evaluation report and counseling record for the period of 16 November 2010 to 15 November 2011. This was a periodic and you received a significant problem for promotion and not recommended for retention.

In accordance with NAVADMIN 354/11 (FY12 Active Duty Enlisted Retention Board (Phase One) Results) published on 21 November 2011, "[t]he results of the FY12 active-duty enlisted retention board (ERB phase one) are posted on BUPERS online (BOL) for individual access by phase I (E4/E5) ERB eligible sailors only."

In accordance with NAVADMIN 025/12 (FY12 Temporary Early Retirement Authority (TERA) Policy) published on 20 January 2012, "[t]his NAVADMIN announces implementation of early retirement policy for sailors with at least 15 years of active service as of 1 September 2012 who were not selected for retention by the enlisted retention board (ERB). for the purpose of this message, the term "retirement" is synonymous with "transfer to fleet reserve" ... TERA is a discretionary authority, not an entitlement. It is a temporary, voluntary program that services may use, upon approval by the service secretary, as part of a comprehensive force management strategy to shape the force. TERA offers voluntary early retirement, at a reduced monthly retirement pay to eligible members prior to completing 20 years of active service."

"Since TERA is not an entitlement, eligible members desiring early retirement must apply for consideration, and approval is not assured...Only enlisted members considered, but not selected for retention, by the FY12 ERB, who will have completed at least 15 years of active service as of 1 September 2012, are eligible for TERA in FY12. Eligibility requirements may not be waived."

On 8 February 2012, Commander, Navy Reserve Forces Command notified ██████████ that "...Per reference (a) [MILPERSMAN 1910-502], you are assigned as the senior member of an

administrative board to be convened at 0900, 22 February 2012, ██████████  
██████████ or as soon as practicable, thereafter. Other individuals assigned to the board are:"

On 2 March 2012, Commander, Navy Reserve Forces Command, Norfolk notified Commander, Navy Personnel Command (PERS-832) that "...Per reference (a) [MILPERSMAN 1910-600], the following information is submitted: ...Reason for processing: Separation by Reason of Physical Fitness Assessment Failure, reference (b) [MILPERSMAN 1910-170]."

"...Comments of the Commanding Officer: ██████████ has almost 16 years in the Navy, and he has been an outstanding Sailor. However, as evidenced by enclosure (1), he failed three Body Composition Assessments (BCA) in a four-year period. ██████████ was notified on 4 January 12 of the procedures for the administrative separation process and acknowledged his three PFA [Physical Fitness Assessment] failures. On 22 February 2012, I convened an administrative board IAW MILPERSMAN 1910-170. The Board found by a vote of 3-0 that the preponderance supports the basis; by a vote of 3-0 a suspended separation for 12 months and if separated, by a vote of 3-0, an Honorable Discharge. I do not agree with the Board's recommendation to suspend the separation. The command has been supportive and has done everything possible to assist ██████████ to get within standards, but he has failed to maintain the standards consistently. Enclosure (2) is a request to me from Counsel for the Respondent for a favorable endorsement. I decline to make a favorable endorsement and recommend that ██████████ be separated with an Honorable Discharge..."

You were discharged with an honorable character of service and were issued a DD Form 214, Certificate of Release or Discharge from Active Duty for the period of 27 December 1996 to 4 June 2012 due to weight control failure.

On 5 June 2012, your RS signed a regular evaluation report and counseling record for the period of 16 November 2011 to 5 June 2012. This was a detachment of individual and you received a progressing for promotion and not recommended for retention.

On 16 June 2012, Commander, Navy Reserve Forces Command, Norfolk notified Commander, Navy Personnel Command (PERS-832) that "Per reference (a) [MILPERSMAN 1910-600], the following information is submitted: ...Reason for processing: Separation by Reason of Physical Fitness Assessment Failure, reference (b) [MILPERSMAN 1910-170]."

"...Comments of the Commanding Officer: ██████████ had just over 15 16 years in the Navy when he failed his third Body Composition Assessments (BCA) in a four-year period. He was notified on 4 January 2012 of the procedures for the administrative separation process and acknowledged his three PFA failures. On 22 February 2012, I convened an Administrative Board IAW MILPERSMAN 1910-170. The Board found by a vote of 3-0 that the preponderance supports the basis; by a vote of 3-0 a suspended separation for 12 months and if separated, by a vote of 3-0/ an Honorable Discharge. I approved the Board's finding but modified the Board's recommendation and disapproved the suspended separation. Enclosure (2) is a request to me from Counsel for the Respondent for a favorable endorsement. I declined to make a favorable endorsement.

████████████████████

You requested to retire in accordance with the TERA program, the Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. On 3 November 2011 [REDACTED] issued you NAVPERS 1070/613 stating that you were not being retained in the naval service due to your failure to meet body composition assessment standards. You were informed your failure to meet physical readiness standards may result in adverse administrative actions including that for a third PFA failure in the most recent 4-year period, marks for retention shall be "Retention Not Recommended" and that you could be administratively separated. On 20 November 2011, your RS signed a regular evaluation report and counseling record listing that you were not recommended for retention. On 22 February 2012 an administrative separation board met and recommended your separation (suspended for 12 months) and recommended an honorable characterization of service, however you were discharged on 4 June 2012 for weight control failure. You assert that TERA became available in January 2012 and that if your command did or didn't want to retain you, they should have advised you of the option to apply for TERA. In accordance with NAVADMIN 025/12 only enlisted members considered, but not selected for retention by the FY12 ERB, and who will have completed at least 15 years of active service as of 1 September 2012 are eligible for TERA in FY12. In accordance with NAVADMIN 129/11 (FY12 Quota-Based Enlisted Retention Board), sailors in your rate were not considered for the ERB and your rate was also accepting applications for conversion. The Board determined that you were likely not considered by the ERB, as such you were not eligible to apply for TERA. Furthermore, you were separated due to weight control failure, not due to force shaping, therefore a change to your record is not warranted. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

12/20/2024

[REDACTED]