



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

██████████
Docket No. 7070-24
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 30 January 2025. 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 Commanding Officer, Navy Pay and Personnel Support Center memorandum 7220 N1 of 8 August 2024, which was previously provided to you for comment.

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.

In accordance with OPNAVINST 1160.8B published on 1 April 19, "[e]ntitlement to the full amount of an SRB [Selective Reenlistment Bonus] will be contingent upon a member maintaining the technical qualification required for effective performance in the military specialty for which the bonus was awarded. A member must remain eligible for SRB in the skill for which the bonus was paid during the entire SRB contract. At the point official action is taken resulting in an SRB recipient no longer meeting technical qualification for an SRB, that member is no longer earning the bonus. If eligibility is lost, that member may be subject to recoupment

of the unearned portion of SRB already received, except for situations outlined in subparagraph 16g.”

“Repayment Policy. Repayment policy is governed reference (a), sections 303a and 373, and reference (c), volume 7A, chapter 2. These policies collectively determine when repayment of an unearned portion of a bonus is required, left to secretarial discretion, or prohibited. Except as provided in subparagraph 15b and 15c, a Service member who is paid SRB will be required to repay any unearned portion of the bonus in the event the Service member fails to fulfill the conditions of eligibility, service, or assignment. Receipt of a payment after having a qualifying SRB rating or NEC removed (i.e., found not medically qualified but receives an anniversary installment after determination of qualification has been removed) is an erroneous payment and will be recouped. As the program manager and per this instruction, OPNAV (N130) is delegated the authority to make these repayment determinations. However, this delegation cannot be below the 0-6 or equivalent level.

Situations requiring pro-rata repayment of the unearned portion and cancellation of future payment (s) of an SRB include but are not limited to reasons listed in subparagraphs 15a (1) through 15a (8) ... (6) Separation for cause, including misconduct.

Repayment of the unearned portion of the bonus will not be sought when a member fails to complete an SRB contract in the circumstances listed in subparagraphs 15b (1) through 15b (4), and as described in reference (c), table 2-1, ‘Disposition of Unearned Portions of Bonuses, Special Pay, Educational Benefits, or Stipends.’ (1) Death, not due to misconduct... (2) Injury or illness, not due to misconduct, that results in separation or retirement for disability under chapter 61 of Title 10, U.S. Code. If such separation or retirement for a disability, (3) Completion of the contract is prevented by the Navy due to specified force management actions such as Navy directed transfer into another military specialty, the rating or skill is phased out or eliminated or otherwise affected by a force structure or mission essential requirement. Note that rating or skill conversions following disqualification for medical conditions not amounting to a disability are elective and do not constitute forced conversion at the needs of the Navy, (4) Separation under hardship separation or a sole survivor discharge as defined under reference (a), section 373(b)(3)(B).”

On 27 January 2014, you entered active duty for 4 years with an End of Active Obligated Service (EAOS) of 26 January 2018 with a Soft EAOS of 26 January 2019.

On 21 December 2017, you were issued official change duty orders (BUPERS order: 3557) with required obligated service to July 2021, while stationed in ██████████ with an effective date of departure of June 2018. Your ultimate activity was ██████████ for duty with an effective date of arrival of 15 July 2018 with a projected rotation date (PRD) of July 2021.

On 10 January 2018, you were issued official cancellation to change duty orders (BUPERS order: 3557).

On 1 February 2018, you were issued official change duty orders (BUPERS order: 0328) with required obligated service to July 2021, while stationed in [REDACTED], [REDACTED] with an effective date of departure of June 2018. Your ultimate activity was [REDACTED] for duty with an effective date of arrival of 15 July 2018 with a PRD of July 2021.

On 2 May 2018, you signed an agreement to extend enlistment for 30 months with a Soft EAOS of 26 July 2021 in order to incur sufficient obligated service to execute BUPERS order 0328.

On 4 June 2018, you transferred from [REDACTED] and arrived at [REDACTED] on 16 July 2018 for duty.

On 5 January 2019, you reenlisted for 5 years with an EAOS of 4 January 2024 and received a zone A SRB.

On 4 June 2019, [REDACTED] issued a Court Memorandum listing block 4 (Type of court) nonjudicial punishment (NJP), block 6 (UCMJ Article(s)) 91, 92, 107, 134, and block 38 (Synopsis of Offense(s), Date(s), and sentence adjudged also amplifying, may be continued on reverse) VUCMJ: ART: 91 (Insubordinate Conduct Toward Warrant Officer, Noncommissioned Officer, or Petty Officer), ART: 92 (Failure to Obey Order or Regulation), ART: 107 (False Official Statements) and ART: 134 (Disorderly Conduct).

Punishment Awarded: restriction 45 days, Forfeiture of ½ months PPM x 2, RIR to E-3 & extra duties 45 days.

On 7 October 2019, you were issued official separation orders (BUPERS order: 2809) while stationed in [REDACTED] with an effective date of departure of October 2019. Place elected for travel: [REDACTED] with an actual date of separation of 17 October 2019.

In accordance with MILPERSMAN 1910-402, published on 9 October 2019, “[a] Service member may be processed for administrative separation (ADSEP) by either Notification or Administrative Board Procedures. The primary difference between these two procedures is as follows: a. Notification Procedure - The Service member is notified that the least favorable characterization of service possible is general, and that the Service member has a right to elect an administrative board only if Service member has 6 or more years of total service and or reserve military service at the time of notification”.

You were discharged with a General-Under Honorable Conditions character of service and were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 27 January 2014 to 17 October 2019 with a separation code of JKQ for Misconduct-Commission of a Serious Offense. In block 18 (Remarks), the following is listed: “... (BLOCK23) Per command; SNM refused to cooperate and complete separation process. Missing required separation documents...”

On 24 January 2023, DFAS notified you that you are indebted to the United States Government due to the following: “Recoupment is required for the unearned portion of your (re)enlistment bonus based on your separation code JKQ. Your (re)enlistment contract obligated you to perform duty through 01/04/2024 and at separation you had 1580 unserved days. If you disagree with the validity or amount of your debt, please contact the pay office, DMPO, or AFAFO that placed you in debt and have them provide our office with proper documentation to alter or cancel your debt [\$8,875.46].”

On 19 September 2023, Administrative Wage Garnishment (AWG) – Agency Hearing Request Resolution was issued noting that “Principal amount: \$8,875.46.” The responses selected were: Proceed/Continue AWG, Valid Case, and Valid Case Amount. “Debor did not provide any financial documentation to support her financial hardship claim.”

On 17 November 2023, DFAS notified you that “[t]he Defense Finance and Accounting Service (DFAS) conducts financial hardship hearings prior to administrative wage garnishment under 31 U.S.C. § 3720D and 31 C.F.R. § 285.11. This is to notify you that the DFAS is in receipt of your hearing request dated September 11, 2023. You have indicated that the proposed garnishment amount of your wages will cause a financial hardship. However, your hearing request cannot be completed because your request is missing information about your financial status.”

The DFAS notified you that “[t]his is in response to your request for a hearing under 31 U.S.C. § 3720D and 31 C.F.R. § 285.11, for Account Number ██████████. It was determined an administrative hearing was appropriate. The hearing was accomplished by reviewing the records to validate the debt for the purpose of administrative wage garnishment.” Furthermore, Summary Record and Hearing Decisions listed the following decision: “Based on a review of [your] records, and pertinent documentation, it is determined the debt remains valid and the amount is correct. [You were] provided due process and collection of the debt by AWG, not to exceed 15% of disposable pay, is proper.”

You requested that your indebtedness to the United States Government be forgiven, the Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that you do not feel that you owe the U.S. Navy the service reenlistment bonus back because you did not get out on your own accord. Furthermore, that you got out due to being sexually assaulted and that you did not receive the board that you requested. However, the Board concluded that you provided no documentation that corroborates your assertion that you were discharged as a result of sexual assault. On 5 January 2019, you reenlisted for 5 years and received a zone A SRB. On 4 June 2019, you were awarded restriction for 45 days, Forfeiture of ½ months PPM x 2, RIR to E-3 & extra duties for 45 days at NJP. On 17 October 2019, you were discharged due to misconduct-commission of a serious offense. In accordance with MILPERSMAN 1910-402, a Service member may be processed for ADSEP by either notification or administrative board procedures. With the notification procedure, the Service member is notified that the least favorable characterization of service possible is general, and that the Service member has a right to elect an administrative board only if the Service member has 6 or more years of total service and or reserve military service at the time of notification. The Board determined that you had served less than 6 years of military service at the time of notification, therefore the Navy was not required to grant a request

for one. The Board determined that in accordance with OPNAVINST 1160.8B, due to your separation for misconduct, you are required to repay the unearned portion of the bonus you received unless the DFAS has waived or remitted your debt. Therefore, a change to your record is not warranted. 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,

3/11/2025

