



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

[REDACTED]
Docket No. 7205-24
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 7 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies, as well as the 16 August 2024 Advisory Opinion (AO) provided by the Office of Legal Counsel (BUPERS-00J) and your response to the AO.

The Board carefully considered your request for reinstatement as a commissioned officer, with a retroactive date of your alleged commissioning, and all rights and pay to which you are entitled be restored. The Board considered your contentions that you completed Officer Candidate School (OCS) and took the Oath of Office on 12 August 2019. Next, the Board considered your claims that you were denied commissioning on the basis of a [Performance] Review Board (PRB) which occurred after you took the oath and graduated. You claim that the Navy has ignored the legal meaning of these events, destroyed evidence related to them, and that you became a naval officer upon taking the Oath of Office. You further contend your commission was improperly rescinded without due process and that critical evidence, such as the OCS logbook, was destroyed by OCS staff. You believe that inconsistent record keeping does not invalidate the Oath and your commission is valid as further evidenced by Navy personnel systems which still list you as an officer.

In response to the AO, you further claims that AO is incorrect in numerous factual statements. First, you assert that the AO mischaracterizes your departure from OCS as a choice to “quit;” which mischaracterizes your medical conditions that were untreatable at OCS. You further emphasize your claims that the existence of the Oath was well documented and, although the administration of the Oath triggered the Navy’s requirement to issue you a DD Form 214, Certificate of Discharge or Release from Active Duty, it does not invalidate the oath or commission, as the Oath itself is the governing event for commissioning in accordance to relevant Navy policies. Next, you claim the Officer Fitness Report signed on 16 August 2019 referring to you an Ensign and reflecting your graduation from OCS, as well as the issuance of orders, further validate your commissioning. Lastly, you emphasize your contention that you took the Oath of Office and completed all necessary steps to graduate from OCS but that only after those events were you placed before a PRB and told you were not an officer.

The Board noted that you were selected to attend OCS and were initially assigned to OCS Class 04-19. Upon arrival, you failed the initial strength test (IST) and were subsequently rolled into OCS Class 05-19. During your time in Class 05-19, you were brought before a Performance Review Board (PRB) on 19 August 2019 following a dining policy violation at an on-base facility on 12 August 2019. The PRB cited your multiple infractions; including Honor Code violations and prior fitness concerns. Based upon PRB findings, which included testimony, investigative findings, and documented violations of OCS policy and Honor Code infractions, the PRB recommended that you be rolled into a subsequent OCS class. Graduation for Class 05-19 occurred on 16 August 2019; however, the Board noted that you did not participate due to the pending PRB. Finally, following the PRB’s recommendation, which was redacted, the Board noted that you joined a subsequent OCS class on or around September of 2019. On 4 October 2019, the CO submitted your disenrollment from OCS and cited the reason as Drop On Request (DOR).

After thorough review of your personal statement and all of your claims, the Board substantially concurred with the AO and determined insufficient evidence of error or injustice exists to support relief in your case. In this regard, the Board noted you provided circumstantial evidence to support your contention that you were administered the Oath of Office. Ultimately, the Board determined you remained enlisted and your commissioning was contingent upon meeting all administrative requirements that never occurred; which included the issuance of a DD Form 214 properly discharging you from your enlisted status. Further, the AO noted and the Board agreed that you did not participate in the 16 August 2019 graduation ceremony due to your pending PRB. The Board noted the PRB later found you guilty of multiple offenses and, according to your own statement, you were rolled into a subsequent OCS class; further diminishing your claims that you were commissioned. Finally, the Board considered your claims that your DOR by a subsequent OCS class was due to medical issues that were dismissed by OCS staff and was not voluntary. However, the Board determined these claims were not pertinent to your claim of relief. The Board noted, after the PRB, you were afforded the opportunity to participate in a subsequent OCS class in which you subsequently submitted your request to DOR. You were appropriately returned to the Fleet and continued serving in your enlisted capacity until you were discharged on 28 February 2023. Further, the Board noted pursuant to OPNAVINST 1420.1B, if someone is removed from OCS or declines their appointment as a commissioned officer, they are required to return to their previous enlisted pay grade in the Navy or Navy Reserve. Lastly, the

Board considered all of your claims regarding the administrative errors in your record, such as the issuance of an officer fitness report and orders referring to you as Ensign, are further evidence of your commissioning. However, the Board determined these errors were merely administrative in nature due to the proximity of your disenrollment so close the OCS Class graduation date and were not evidence of your commissioning. Moreover, the Board determined these discrepancies do not override statutory and regulatory requirements for commissioning and determined you provided insufficient evidence to conclude that you successfully graduated or completed the requirements for commissioning. Thus, the Board concluded that your disenrollment from OCS and subsequent return to enlisted status were conducted in accordance with applicable policies.

Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

2/27/2025

