



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

██████████  
Docket No. 789-25  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 17 June 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 Assistant Commander, Navy Personnel Command for Career Progression letter 5420 PERS-835 of 12 March 2025, which was previously provided to you for comment.

On 8 October 1975, you entered active duty.

On 18 December 1990, you were issued an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/20) with a designator code of 6442 in the active U.S. Navy listing block 15 (Present Grade) ENS, and block 16 (Present grade date) 1 February 1991. You/witness signed this form on 20 November 1991.

On 19 July 1995, you were issued an Officer Appointment Acceptance and Oath of Office (NAVCRUIT 1000/20) with a designator code of 6440 in the active U.S. Navy listing block 13 (Permanent grade) LT, block 14 (Permanent grade date) 1 February 1995, block 15 (Present Grade) LT, and block 16 (Present grade date) 1 February 1995. You/witness signed this form on 2 August 1995.

On 1 September 2006, you were appointed to Commander/O-5.

You were retired with an Honorable character of service and were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 1 February 1991 to 31 August 2007 upon having sufficient service for retirement.

10 U.S.C. §6323. Officers: 20 years. (a)(1) An officer of the Navy or the Marine Corps who applies for retirement after completing more than 20 years of active service, of which at least 10 years was service as a commissioned officer, may, in the discretion of the President, be retired on the first day of any month designated by the President. (2)(A) The Secretary of Defense may authorize the Secretary of the Navy, during the period specified in subparagraph (B), to reduce the requirement under paragraph (1) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary) of not less than eight years. (B) The period specified in this subparagraph is the period beginning on January 6, 2006, and ending on December 31, 2008. (b) For the purposes of this section—(1) an officer's years of active service are computed by adding all his active service in the armed forces; and (2) his years of service as a commissioned officer are computed by adding all his active service in the armed forces under permanent or temporary appointments in grades above warrant officer, W-1. (c) The retired grade of an officer retired under this section is the grade determined under section 1370 of this title.

10 U.S.C. §1370. Commissioned officers: general rule; exceptions. (a) Rule for Retirement in Highest Grade Held Satisfactorily. (1) Unless entitled to a higher retired grade under some other provision of law, a commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps who retires under any provision of law other than chapter 61 or chapter 1223 of this title shall, except as provided in paragraph (2), be retired in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

(2)(A) In order to be eligible for voluntary retirement under any provision of this title in a grade above major or lieutenant commander, a commissioned officer of the Army, Navy, Air Force, or Marine Corps must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years.

Retirement in Next Lower Grade. An officer whose length of service in the highest grade he held while on active duty does not meet the service in grade requirements specified in subsection (a) shall be retired in the next lower grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

On 2 May 2007, you were issued official retirement orders (BUPERS order: 1227) while stationed in ██████████ with an effective date of departure of August 2007. Furthermore, the following was listed: “Your request to be transferred to the retired list was approved by the Secretary of the Navy effective 01 Sep 2007. On 01 Sep 2007 you will be transferred to the retired list with the grade of LCDR and with retired pay of LCDR, pursuant to provisions of 10 U.S.C. SEC. 6323.”

You requested to be restored to paygrade O-5 in retirement. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. In accordance with Title 10, United States Code, Section 6323, paragraph (c) states “[t]he retired grade of an officer retired under this section is the grade determined under section 1370 of this title.” In accordance with Title 10, United States Code, Section 1370, “[i]n order to be eligible for voluntary retirement under any provision of this title in a grade above major or lieutenant commander, a commissioned officer of the Army, Navy, Air Force, or Marine Corps must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years.” The Board concluded that you were appointed to the rank of Commander on 1 September 2006 and were transferred to the Retired Reserve on 31 August 2007; obtaining one year time-in-grade. The Board determined that you do not meet the requirement detailed above. In this connection, the Board substantially concurred with the comments contained in the aforementioned 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,

6/26/2025

Deputy Director

Signed by: