



**DEPARTMENT OF THE NAVY**

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 6828-25

Ref: Signature Date

[REDACTED]

Dear [REDACTED],

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 2 December 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 Commander, Navy Personnel Command letter 5740 PERS-91 of 29 August 2025 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 31 July 1973, you enlisted in the U.S. Navy.

You were released from active duty 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 4 August 1973 to 3 August 1977 within 3 months of expiration of U.S. Navy contract and concurrent transfer to Naval Reserve.

In accordance with BUPERSINST 1001.39F, published on 17 September 2007, 2003. Reserve Service Requirements to Qualify for Non-Regular retirement. Unless otherwise provided by law, a Reservist must have completed 20 years of qualifying service to be eligible for non-regular service retired pay at or after age 60...2005. Criteria for Establishing the Service requirement

for a Satisfactory Year of Service for Non-Regular Service retirement. 1. The full year periods used for the crediting of qualifying years for non-regular retirement shall be based on 'anniversary' years. These anniversary year periods are calculated from an anniversary date unique to each servicemember. Per DOD Instruction 1215.07, the date used to determine the anniversary year is established by the date the member entered into active service or into active status in a Reserve component, whichever is earlier. Members with previously established anniversary dates will retain that date as the beginning of their anniversary year...

On 25 June 2010, COMNAVPERSCOM notified [REDACTED] that “[t]he Secretary of the Navy has directed the Temporary Disability Retirement with disability at 50 percent. Release from active duty 29 Jun 10, retirement effective 30 Jun 10. Subject member is competent. Disability has been determined to be not combat related.”

“A TDRL [Temporary Disability Retired List] member will receive orders from PERS-835 to appear for a reevaluation at least once every 18 months. Per TITLE 10 U.S.C. Section 1202, members may only be on the TDRL for a maximum of 5 years. After final TDRL reevaluation, The Physical Evaluation Board will make a final decision taking member off the TDRL. The final decision may determine member to be transferred to the PDRL, separated with disability severance pay, or found fit.”

In accordance with 10 USC §12732. Entitlement to retired pay: computation of years of service. (a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under section 12731 of this title, the person's years of service are computed by adding the following:... (2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis: (A) One point for each day of (i) active service; or (ii) full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned...b. the following service may not be counted under subsection (a): ...service in the Fleet reserve or Fleet Marine Corps Reserve...

You transferred to the TDRL 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 13 July 2008 to 30 June 2010 due to Disability, Temporary.

On 15 March 2014, Record of Discharge from the U.S. Navy Reserve (Inactive) (NAVPERS 1070/615) was issued with an Honorable discharge from the U.S. Navy.

On 19 March 2014, Commander, Navy Personnel Command notified you that “[y]our request to reenlist/extend in the IRR has been disapproved. A detailed review of your record has been conducted in accordance with Title 10 U.S.C, and BUPERSINST 1001.39F. Current policy prohibits your reenlistment/extension for the following reason or reasons:... You are eligible to apply for a Reserve retirement Recommend you contact the Navy Personnel Command Customer Service Center at Comm: 1-866-827-5672 and request to speak with a PERS-912 retirement counselor...”

On 21 April 2014, Commander, Navy Personnel Command issued you a Statement of Service (SOS) for Navy Reserve Retirement for the period of 31 July 1973 to 1 December 2013 listing 20 years, 11 months, and 29 days of Qualifying Years of Service, 3,758 Total Retirement Points Creditable for Pay, and a Dave Eligible for Notification of Eligibility (NOE) for Retired Pay of 1 December 2013.

On 9 July 2014, Commander, Navy Personnel Command notified you that “[i]n accordance with the provisions of Title 10, U.S. Code, Section 1210, the Secretary of the Navy has determined that the disability for which you were placed on the [TDRL] has stabilized and that your disability is now PERMANENT and rated at SEVENTY (70) percent disabling. Accordingly, you will be placed on the retired list by reason of a permanent physical disability effective 1 July 2014 in the grade of AVIATION ELECTRICIAN'S MATE FIRST CLASS.”

On 18 July 2014, Commander, Navy Personnel Command issued you a Statement of Service for Navy Reserve Retirement for the period of 31 July 1973 to 30 June 2010 listing 18 years, 6 months, and 28 days of Qualifying Years of Service, and 3,592 Total Retirement Points Creditable for Pay.

On 10 September 2014, Commander, Navy Personnel Command issued you a Statement of Service for Navy Reserve Retirement for the period of 31 July 1973 to 30 June 2010 listing 18 years, 6 months, and 28 days of Qualifying Years of Service, and 3,592 Total Retirement Points Creditable for Pay.

On 20 August 2025, Commander, Navy Personnel Command issued you a Statement of Service for Navy Reserve Retirement for the period of 31 July 1973 to 30 June 2014 listing 18 years, 6 months, and 29 days of Qualifying Years of Service, and 3,588 Total Retirement Points Creditable for Pay.

You requested the original years of service as listed in the SOS signed on 21 April 2014 be restored, the incorrect fabricated SOS issued on 10 September 2014 destroyed, and to instruct the Defense Finance and Accounting Service to restore retired pay that was halted in 2014 and receive back pay. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. Your request was considered by the Board on two previous occasions. Docket No. 511-15 was presented to the Board on 29 December 2015 and was denied. Docket No. 5556-17 was presented to the Board on 11 September 2018 and was also denied. The new documentation you submitted in support of your current petition is the NOE of another service member and stated that the information contained within it pertained to you. Specifically, “[y]our eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of creditable service performed unless it resulted directly from fraud or misrepresentation on your part.” However, the Board concluded that the NOE was issued to the member upon *having already completed* the required years of service. You never completed the qualifying years of service prior to your transfer to the TDRL to be issued an NOE, therefore your retirement was not denied or revoked. You assert that “[t]he original record of 21 Apr 2014 shows 12/02/09 – 12/01/10 as a complete year of service with 211 days on active duty. This original record is correct, as I was still on active duty for the required active-duty days for a

complete qualifying year (per 10 U.S. Code 12732 (2)) before being placed on TDRL on 30 June 2010." However, the Board disagreed. 10 U.S. Code 12732 states, "...for the purpose of determining whether a person is entitled to retired pay under section 12731 of this title, the person's years of service are computed by adding the following:... (2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis: (A) One point for each day of (i) active service..." The Board agreed that you were on active duty until your transfer to the TDRL on 30 June 2010, and you received the appropriate number of points for your active service and membership points, however you did not earn a qualifying year because you did not serve the entire year. Your anniversary year was 2 December 2009 and you were transferred to the TDRL on 30 June 2010. This SOS lists that year as 2 December 2009 to 1 December 2010; the Board concluded that it should have concluded with 30 June 2010. Therefore, the Board determined that the SOS dated 21 April 2010 is erroneous. Additionally, the corrected SOS dated 10 September 2014 shows the qualifying years of service as 18 years, 6 months, and 28 days, well short of the required 20 years for a non-regular retirement. Therefore, the Board determined that at the time you were transferred to the TDRL, you were ineligible for a non-regular retirement. You assert that you were not retired but were on a Temporary Disabled List; again, the Board disagreed. Your orders transferring you to the TDRL clearly state your status: Release from active duty 29 Jun 2010, retirement effective 30 Jun 2010. Furthermore, in accordance with 10 U.S. Code 12732 service in the Fleet reserve is not counted towards the service requirement; therefore, points you earned for courses during the time you were on the TDRL are not counted as service for retirement. The Board thus 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.

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,

12/9/2025

