



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

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Docket No. 959-21
Ref: Signature Date

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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.

A three-member panel of the Board, sitting in executive session, considered your application on 21 October 2021. 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 as well as the 19 March 2021 advisory opinion (AO) by the Office of Legal Counsel (PERS-00J) and your 13 July 2021 rebuttal response.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove documents related to the Board of Inquiry (BOI) held on 9 March 2018. The Board considered your contentions the BOI-related documents should be removed from your official military personnel file (OMPF) because you were unjustly placed in a "four-year long administrative separation process" for "something [you] did not do." You further contend the misconduct charge of unlawful drug use "carried an automatic charge of substandard performance," and the BOI determined the preponderance of evidence supported that basis because you "should have known and/or avoided a positive urinalysis result." The Board also considered your contention that a 2017 Navy Times article, which discusses an investigation into false positives in methamphetamine and amphetamine testing at the Great Lakes Navy Drug Screening lab, "explains the positive urinalysis test" and "proves this injustice." Lastly, the Board considered your contention the adverse and punitive information, related to the BOI, is deeply affecting your Navy career.

The Board, however, substantially concurred with the AO and concluded the documents accurately reflect the BOI results and should remain in your OMPF. Specifically, the Board determined the evidence provided does not overcome the presumption of regularity attached to the BOI and the related documents. Further, the Board noted you tested positive for cocaine and the Navy Times article discussed false positive in methamphetamine and amphetamine testing. The Board concluded the BOI-related documents are authorized to be filed in your OMPF and should be retained.

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,

 1/6/2021

Deputy Director

