



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: 620-21
Ref: Signature Date

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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 12 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 the 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.

On 18 October 2018, you underwent non-judicial punishment (NJP) and your commanding officer (CO) found you guilty of violating Article 92 of the Uniform Code of Military Justice (UCMJ) for failure to obey a lawful general order: OPNAVINST 5300.13 Navy Sexual Harassment Prevention and Response Program, for committing sexual harassment from 19 December 2017 to 17 September 2018. You received a punishment of reduction to E-5, forfeiture of one half month's pay for two months (suspended for two months) and restriction for 60 days. On 25 October 2018, you submitted an appeal on the grounds that the punishment awarded was unjust and disproportionate, that the investigation was biased and improper, and that you were not given the opportunity to view all the evidence against you. On 29 November 2018, the Commander for Navy Region █ denied the appeal stating that the evidence supported the conclusion by a preponderance of the evidence that you committed sexual harassment.

The Board carefully considered your request to remove all adverse documentation regarding the alleged misconduct from your official military personnel file (OMPF), to include the NJP of 18 October 2018. You contend that the NJP and adverse documentation is erroneous and unjust

because the statements gathered during the command investigation were inaccurate and based on hearsay, the investigating officer (IO) was appointed improperly, and the Equal Opportunity Sexual Harassment Grievance Procedures were not followed properly.

The Board noted that prior to, and during the hearing, you were advised of your rights to refuse the NJP, and you accepted NJP. The Board further noted that you had an opportunity to review the evidence presented against you at NJP – the seven statements from the Command Investigation of 2 October 2018. In addition, you were afforded all of your procedural rights and submitted an appeal to the NJP. Lastly, the Board noted that the Commander, Navy Region [REDACTED] after consulting with his Staff Judge Advocate (SJA) concluded that the command investigation was completed properly and without bias. Consequently, the Board determined that there was no material error or injustice regarding the command investigation and NJP and concluded that all adverse documentation shall remain in your record.

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,

11/8/2021

[REDACTED]

Executive Director

[REDACTED]