



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

█
Docket No: 1921-21
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 23 November 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.

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.

You took a random urinalysis test on 27 August 2019; your sample tested positive for cocaine. You underwent Battalion level non-judicial punishment (NJP) and also received an Administrative Remarks Page 11 entry on 22 October 2019 for violating Article 112a of the Uniform Code of Military Justice (UCMJ) for using a controlled substance, cocaine. As punishment you received reduction to lance corporal (E-3), 45 days restriction (suspended), 45 days of extra punitive duties, and forfeiture of one-half month's pay for two months (suspended). You submitted a rebuttal to the Page 11 and appealed the NJP. Commanding Officer, █ upheld the NJP on 15 January 2020. You subsequently underwent an Administrative Separations Board (ASB) 20-21 July 2020; the ASB found you committed misconduct, drug abuse, by a preponderance of the evidence and recommended separation from the Marine Corps. You were discharged from the Marine Corps on 23 October 2020 with a General (Under Honorable Conditions) characterization of service.

The Board carefully considered your request to remove the NJP of 22 Oct 2019 and all documentation regarding the positive urinalysis test from your official military personnel file (OMPF), to reinstate you to the rank of corporal from 22 October 2019, and to change your re-enlistment code and characterization of discharge to an Honorable Discharge. You argue that the NJP is unjust as you took the urinalysis test on a day other than 27 August 2019, that there were errors in the chain of custody, and that your urinalysis sample was not kept in a secured location.

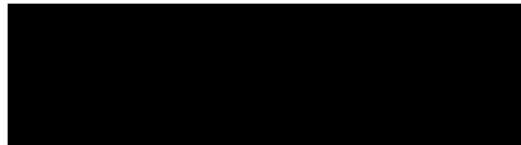
The Board noted that you were notified of your right to refuse NJP and that you waived this right and accepted NJP. The Board further noted that you submitted matters on your behalf at NJP and had the opportunity to appeal. Your NJP was reviewed by the I Marine Expeditionary Force Staff Judge Advocate (SJA) who upheld that the punishment was appropriate and there was no procedural error regarding the NJP. In addition, the Board noted that the ASB stated that the “chain of custody maintained integrity throughout the urinalysis process.”

Consequently, the Board determined that the 22 October 2019 NJP is valid and concluded that the administrative separation discharge shall remain. Consequently, reinstatement to the rank of corporal nor modification of the re-enlistment code is warranted. With respect to the request to upgrade the characterization of service, you have not exhausted all administrative remedies; specifically, you need to make this request via the Naval Discharge Review Board (NDRB).

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,

12/21/2021

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Deputy Director

Signed by: 