



**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: 3592-21  
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 28 December 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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.

The Board carefully considered your request to remove your 16 March 2021 unit punishment book (UPB)/non-judicial punishment (NJP). The Board considered your contentions that you did not commit the alleged violations, the command investigation and NJP process violated your civil rights, your punishment was disproportionate, and hazing occurred throughout the process. You also contend that you were not informed of the evidence against you, there were no witnesses against you, and you were not allowed to exercise your right to consult with or retain legal representation. You claim that the toxic culture and treatment you received was the foundation of discriminatory bias and violations of your constitutional rights. You also claim that you were interviewed regarding an anonymous Inspector General (IG) complaint about your platoon's leadership. As evidence, you furnished a personal statement, phone records, and email regarding an IG investigation.

The Board noted that you received NJP on 16 March 2021, for violating Article 86, Uniform Code of Military Justice (UCMJ) for being absent from your appointed place of duty—an accountability formation on 6 March 2021, and for violating Articles 90 and 91, UCMJ for willfully disobeying a lawful order by leaving the Area 52 boundary limits. You were awarded reduction to the grade E-1, forfeiture of pay, and

restriction. The Board also noted that you acknowledged your Article 31, UCMJ Rights, accepted NJP in lieu of court martial, certified that you were given the opportunity to consult with a military lawyer, acknowledged your right to appeal your NJP and indicated that you did not intend to submit an appeal.

The Board noted, too, that on 16 March 2021, you were issued page 11 entries documenting your NJP and notifying you that you are not recommended for promotion to E-2. You acknowledged both entries and elected to submit a statement addressing the entry documenting your NJP. In your statement, you argued that you were treated unfairly, that you did not appeal your NJP because you feared reprisal, and that your punishment was more severe than other Marines.

The Board, however, found no evidence that the command investigation or NJP process violated your civil rights, that you were not informed of the evidence against you, or that you were not allowed to exercise your right to consult with or retain legal representation and you provided none. The Board noted your signature in block 2 and block 4 of your UPB affirming that you were advised of and understood your rights under Article 31, UCMJ and that you were given the opportunity to consult with a lawyer provided by the government at no cost to you. The Board also noted that the *Manual for Courts-Martial* (2019 ed.) provides that you had the right to examine documents or physical object against you which the NJP authority intends to rely upon in deciding whether and how much NJP to impose. However, the Board found no evidence that you were not afforded this right and you provided none. The Board determined that your NJP was conducted according to the *Manual for Courts-Martial* (2019 ed.) and your punishment was just and proportionate to your offenses. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption.

Concerning your claims of a toxic culture and discriminatory bias, the Board noted your phone records and statement, however, the Board found that your evidence was insufficient to support your contentions. You also indicate in your application that you were the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

1/15/2022

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Deputy Director

Signed by: █