A TOTOLOGICAL STREET, STREET,

DEPARTMENT OF THE NAVY

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

Docket No: 3594-21 Ref: Signature Date



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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 1 February 2022. 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.

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 2 August 2012, while at your first command assignment, you assaulted a fellow officer onboard your ship. On 27 August 2012, your Commanding Officer (CO) imposed non judicial punishment (NJP) for violation of Articles 128 (Assault) and 133 (Conduct unbecoming an officer and gentleman) of the Uniform Code of Military Justice resulting the issuance of a punitive letter of reprimand. You appealed the NJP, however it was ultimately denied on 2 October 2012. As a result, your CO issued a Report of NJP recommending that you be detached for cause (DFC) and that you be required to show cause for retention in the naval service. While the Report of NJP and DFC request was being processed, you were transferred to in January 2013. On 31 May 2013, your DFC was approved and you

were notified of administrative separation proceedings. After receiving the notification in

Docket No: 3594-21

August 2013, you submitted a Qualified Resignation Letter on 26 August 2013. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) approved your resignation and directed your separation with an Honorable characterization of service due to misconduct on 28 January 2014. Accordingly, you were discharged from the Navy on 7 March 2014. Despite finding that your DFC and separation proceedings were proper, based on your outstanding in-service conduct and length of service, the Navy Discharge Review Board changed your narrative separation to "Secretarial Authority" on 26 August 2019.

The Board carefully considered your request to remove all adverse documentation regarding the 2012 incident from your official military personnel file (OMPF), to include the NJP of 27 August 2012, PLOR of 30 August 2012, Report of NJP of 10 October 2012, and Detachment for Cause of 31 May 2013. You contend that the adverse documentation is erroneous and unjust because the command did not follow the correct administrative reporting process detailed in MILPERSMAN 1611-010. Specifically, you argue you were not sent the 31 May 2013 from NPC stating that your DFC had been approved and you did not receive the Administrative Separation Notification Letter dated 14 June 2013 from NPC until 23 August 2013. You contend that you were unjustly denied the opportunity to submit a letter advocating for your retention in the United States Navy and that the decision to administratively separate you based on one incident during your first tour was unduly harsh.

The Board noted there is no substantial evidence that your DFC was improper; as there is no credible evidence that you were not notified of Naval Personnel Command's approval of your DFC. Your statement alone does not overcome the presumption of regularity. The 31 May 2013 letter was sent to the , but it was also copied to your official personnel record. In addition, the 14 June 2013 letter notifying you of administrative proceedings was also copied to your official personnel record. Moreover, the Board noted that you were aware that your CO recommended in the Report of NJP that you be detached for cause and required to show cause for retention. Further, the Board noted that your CO deemed the misconduct severe enough to warrant a recommendation for separation and higher command concurred. Finally, the Board took into consideration that you submitted a resignation request, while acknowledging your rights, after being notified of administrative separation processing. In the Board's opinion, you were provided the opportunity to contest these matters while on active duty but chose not to do so. Consequently, the Board determined that there was no material error or injustice regarding the Detachment for Cause and subsequent administrative separation and concluded that all adverse documentation shall remain in your record. In making this finding, the Board weighed the fact you already received a measure of relief from the NDRB that addressed any injustice issues related to your complaints of delayed notification.

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

Docket No: 3594-21

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.

