



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

█
Docket No: 3996-21

Ref: Signature Date



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 11 January 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 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.

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 case on its merits. The Board carefully considered your request for clemency by setting aside your Summary Court Martial (SCM). The Board considered your contention that the continued presence of the SCM in your record is an injustice. You claim that following your misconduct, you returned the stolen property to the owner and entered a guilty plea. You also claim that you completed the Emergency Medical Responder Course and your career in the military and civilian world has been exemplarily.

The Board noted that you were convicted at SCM on 4 June 2014 for violating Article 121, Uniform Code of Military Justice (UCMJ) for stealing \$300 from another Marine, you pled guilty and were awarded reduction to E-1, forfeiture of 2/3 pay for 1 month and restriction. The Board determined that the Navy-Marine Corps Court of Criminal Appeals is the appropriate agency to address your request. The Board is not a court or investigative body, however, the military court of appeals will determine whether you were properly proven guilty. The court will

also investigate any legal errors that may have occurred during the proceedings and unlike the Board, the court of appeals can reduce your penalties or dismiss your case entirely.

Concerning your contention that the continued presence of the SCM in your record is an injustice. The Board acknowledged your certificates and the correspondence furnished on your behalf, however, the Board does not have the authority to remove or to mitigate the consequences of your SCM. The Board noted that according to the 25 July 2018, Under Secretary of Defense memorandum to Military Review Boards, the Board may grant clemency, however, clemency only refers to relief specifically granted from your criminal sentence. Thus, regardless of any relief that could have been granted by the Board, your SCM conviction would remain a matter of record and any restrictions or impediments would continue. 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,

1/28/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]