



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: 4624-21
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.

A three-member panel of the Board, sitting in executive session, considered your application on 25 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 as well as the 23 August 2021 advisory opinion (AO) furnished by the Commander, Navy Personnel Command (PERS-91). The AO was provided to you on 24 August 2021, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

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 be reconsidered for selection by the Navy Selective Reserve (SELRES) Review Board. The Board considered your contention that when the SELRES Board reviewed your personnel file, it included a 13 June 2017 Show Cause Recommendation that referenced your arrest for Driving Under the Influence (DUI), although you were later convicted of reckless driving—a lesser charge. You also contend that your record was inaccurate, unjust and unduly prejudicial, in that it presented an argument of only one side at an adversarial hearing and materially misrepresented the disposition of your arrest by creating the unavoidable impression that you were convicted for DUI instead of the lesser charge of

reckless. You argue that this inaccuracy formed the basis for your failure to be selected for appointment.

The Board, however, substantially concurred with the AO. In this regard, the Board noted that your Final Civil Action Report accurately reflects that you were convicted of reckless driving vice DUI. In the Board's opinion, this reduces any chance that the SELRES Review Board may have misinterpreted the Show Cause recommendation in your case. Regardless, the Board concluded that the SELRES Review Board properly considered the Show Cause recommendation since it accurately captured the circumstances of your arrest and was authorized to be reviewed by the SELRES Review Board as adverse information. Adverse information is any substantiated adverse finding or conclusion from an officially documented investigation inquiry or any other credible information of an adverse nature. To be adverse, the information must be derogatory, unfavorable, or of a nature that reflects clearly unacceptable conduct, integrity, or judgement on the part of the individual. Based on this criteria, the Board determined the Show Cause recommendation was adverse or reportable information. As such, the Board determined that the SELRES Review Board properly considered Show Cause recommendation in determining whether you should be recommended for a Reserve Oath of Office. 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,

2/10/2022

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Executive Director

Signed by: █