



**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: 4986-21  
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 19 October 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, as well as the 17 August 2021 advisory opinion (AO) furnished by the Navy Personnel Command (PERS-32) and your response.

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: (1) remove all references to your 12 March 2020 non-judicial punishment (NJP); (2) remove all adverse material from your record; (3) remove your fitness report for the reporting period 3 December 2019 to 25 June 20 and replace it with a "no fault" memorandum for continuity; (4) remove your failures of selection; (5) authorize a Special Selection Board (SSB) for the FY 2022 Navy Commander (CDR/O-5) promotion board; and (6) if not selected during the SSB, you request a referral to a Special Continuation Board for FY 2022. The Board considered your contentions that your commanding officer (CO) overstepped his authority, disregarded Uniform Code of Military Justice (UCMJ) guidelines, and unfairly punished you by awarding NJP. You also contend that your Board of Inquiry (BOI) found that your NJP had no basis and the preponderance of evidence did not support the NJP.

You claim that the adverse material in your record meant that you were unfairly considered by the FY 2022 promotion board and continuation board.

The Board, however, substantially concurred with the AO. In this regard, the Board noted that you received NJP on 12 March 2020 for violating Article 92 (Failure to obey order or regulation) and Article 133, (Conduct unbecoming an officer and a gentleman), Uniform Code of Military Justice (UCMJ) for wrongfully touching the buttocks of [x], by saying “you look really f...ing hot” or words to that effect, by creating a hostile working environment within Helicopter Sea Combat (HSC) Squadron ██████████ and for wrongfully and dishonorably offering unwelcome sexual advances to your female subordinates on diverse occasions from November 2017 to 8 February 2020. You pled not guilty, but your commanding officer (CO) found you guilty and you were awarded a punitive letter of reprimand (PLOR). The Board also noted that according to your PLOR, the Preliminary Inquiry and Command Investigation documented your lack of professionalism and how your conduct created a hostile work environment in the Squadron. The Board noted, too, that the investigations substantiated your engagement in a pattern of inappropriate conduct towards female junior officers. The Board determined that you were afforded due process, you exercised your right to appeal your CO’s finding at NJP and your PLOR, your appeals were reviewed, considered by the proper authorities, and your appeals were denied. The Board found no evidence that your CO exceeded his authority or violated the *Manual for Courts-Martial* (MCM) (2019 ed.) by imposing your NJP. The Board also determined that your NJP is valid and your NJP was conducted according to the MCM.

Concerning your fitness report for the reporting period 3 December 2019 to 25 June 2020, the Board noted that your report was marked 1.0 for performance traits ‘Command Climate/Equal Opportunity’, ‘Teamwork’, and ‘Leadership’, and your performance trait for ‘Military Bearing’ was marked 2.0. The Board also noted that your reporting senior (RS) provided the required justification for your adverse marks and documented your NJP. Your RS also commented that your behavior while on liberty during a port call in February 2020 permanently broke his trust in you as a naval officer, your actions led him to relieve you of all duties, and underpinned his conviction that you are not suited for further service as an officer in the Navy. The Board substantially concurred with the AO and noted that according to the Navy Performance Evaluation System Manual (EVALMAN), RSs are allowed to document concluded NJP cases where there has been a finding of guilty or awarding of punishment and comments may be included on misconduct whenever the facts are clearly established to the RS’s satisfaction. Accordingly, the Board determined that your RS properly prepared and submitted your fitness report according to the EVALMAN.

On 2 June 2020, the CO, Helicopter Sea Combat Squadron ██████████ submitted a Report of NJP. Your CO noted that he found you guilty of all charges and that your character was not in keeping with the standards expected of a naval officer. Your CO determined that you should be required to show cause for retention in the naval service. In response to your Report of NJP, you took full responsibility for your actions as an officer and gentlemen and admitted that all of the actions claimed were when you and other parties were consuming alcohol, which you saw as a problem. You acknowledged that you chose to drink and are therefore responsible for your actions while under the influence, however, you argued that you did not lose situational awareness of your

