



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. 6198-21
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.

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 applications on 17 March 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of 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.

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.

You enlisted in the U.S. Marine Corps and commenced a period of active duty on 5 December 2005. You served without disciplinary action until 30 January 2013, when you received nonjudicial punishment (NJP) for violating a lawful general regulation, willfully and wrongfully destroying by breaking personal property of another, and wrongfully influencing the actions of your spouse by preventing/interfering with an emergency telephone call to report domestic violence. You were subsequently reduced in grade to Corporal/E-4. You also received a Grade Change adverse fitness report for the reporting period 9 January 2013 to 30 January 2013. You acknowledged the adverse nature of the fitness report and in your statement to the adverse nature of the fitness report, you took full responsibility for your actions and accepted the consequences. On 21 March 2013, the █ Court deferred prosecution in your case for a period of 12 months, contingent upon you committing no future crimes, paying a \$200

administrative fee, and entering into domestic violence counseling. You were discharged from the Marine Corps on 22 December 2013 with an Honorable characterization of service due to non-retention on active duty.

The Board carefully reviewed your request to restore your grade to Sergeant/E-5, weighed all potentially mitigating factors, and considered your contentions that the reason for the reduction was a guilty plea in ██████ County court, but that the guilty plea was withdrawn and all charges dropped. You assert that you have no criminal record and believe the reduction in grade was rushed and unjustified. The Board noted that you acknowledged your Article 31(b), Uniform Code of Military Justice rights, were afforded the opportunity to consult with counsel, accepted NJP, and did not appeal your Commanding Officer's (CO's) finding of guilt at office hours. The Board determined that your CO had the authority to impose NJP based on his position and the nature of the offense(s). The Board further determined that your NJP is valid and was conducted in accordance with the Manual for Courts-Martial (2019 ed). The Board noted the deferred prosecution decision of the Yuma Municipal court; however, they determined that the court's decision did not absolve you of the misconduct that formed the basis for your NJP. Therefore, based on your acceptance of responsibility for your misconduct, the Board concluded the basis for your NJP remains valid. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

3/29/2022

