



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

██████████  
Docket No: 568-22  
Ref: Signature Date

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██  
██  
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Dear ██████████

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 16 May 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.

The Board carefully considered your request to remove your 17 June 2021 nonjudicial punishment (NJP) and associated page 11 entries. The Board also considered your request that your rank should be restored. The Board also noted that, on 17 June 2021, you received NJP for violation of the Uniform Code of Military Justice (UCMJ), Article 92 (Failure to obey an order or regulation) after by engaging in sexual relations in the barracks. The Board considered your contention that you were denied due process during the NJP process. Finally, the Board considered your assertions that you were told to just accept the consequences and that you were a brand new Marine.

In reviewing the evidence, the Board noted that you were advised of your rights under Article 31, UCMJ, given the opportunity to consult with a military lawyer, and advised of your right to demand trial by court-martial in lieu of NJP. You provided a statement regarding your understanding of your Article 31 rights. You agreed to accept NJP and you were advised of your right to appeal on 17 June 2021.

The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained in your record, the Board determined that you were afforded all the due process rights required under the applicable regulations for NJP proceedings and your assertions of error were insufficient to rebut the presumption of regularity in your case. As a result, the Board found your arguments of due process denial without merit.

Regarding the removal of the NJP from your record, the Board concluded the preponderance of the evidence does not support relief. The Board determined your Commanding Officer acted within his discretionary authority to impose NJP on you for your misconduct. As explained above, the Board found you were afforded the required due process including a right to appeal the NJP, which you did not exercise. Further, in making this finding, the Board considered that you signed the Statement of Understanding regarding sexual relations in the barracks on 24 March 2021. Finally, the Board was not persuaded by your arguments of discrimination based on your sexual orientation. As a result, while the Board was pleased with your transformation as a new Marine, it concluded that your request to remove the NJP and the associated page 11's, along with a restoration in rank, is not supported by the preponderance of the evidence. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

6/6/2022

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Executive Director

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