



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

█  
Docket No: 1049-22  
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 21 July 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 also considered the 16 May 2022 advisory opinion (AO) furnished by the Office of Legal Counsel (PERS-00J). The AO was provided to you on 13 June 2022. You were given 30 days in which to submit a response but chose not to do so.

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.

On 15 February 2020, during a liberty port visit in the █, you failed to return to █ after your Morale, Welfare, and Recreation (MWR) tour to sign out on liberty with a liberty buddy. Instead, you remained on liberty with a different person from the tour. You also consumed an alcoholic beverage on liberty although you were designated as the non-drinking liberty buddy.

On 18 April 2020, your Commanding Officer (CO) imposed non-judicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ) Article 92 (Failure to Obey a Lawful Order); Article 107 (False Official Statement); Article 133 (Conduct Unbecoming an Officer); and

Article 134 (Fraternization). As punishment, your CO awarded you a Punitive Letter of Reprimand (PLOR).

On 19 May 2020, your CO reported your NJP to Commander, Navy Personnel Command recommending that you not have to show cause for retention or have your promotion to LTJG delayed. On 6 July 2020, Commander, Expeditionary Strike Group █████ concurred with your CO that you should not be required to show cause. On 26 October 2020, Commander Naval Personnel Command (CNPC) notified you that the NJP report would be added to your official military personnel file (OMPF) as adverse material. On 27 April 2021, CNPC determined you were not qualified for promotion to Lieutenant Junior Grade (LTJG) at the time. You submitted matters to request reconsideration; your request was favorably endorsed by your CO, and you were subsequently promoted to LTJG.

The Board carefully considered your request to remove the PLOR from your record or, in the alternative, to replace the PLOR with a lesser punishment. In addition, you request to backdate your promotion to LTJG to 25 May 2020.

You argue that the PLOR was unsubstantiated; however, the Board concurred with the AO that your own statements corroborate the charges of which you were found guilty at NJP. Based on this finding, the Board concluded there was no error or injustice in the issuance of the PLOR. Further, the Board noted that removal of the PLOR or issuing a lesser punishment would equate to removal of the entire NJP. Based on the seriousness of your misconduct, the Board determined the PLOR remains appropriate in your case.

You further contend that the NJP punishment was unjust as you received a PLOR while other officers who were involved in the liberty incident received a Letter of Instruction (LOI) and did not have their promotions delayed. The Board was not persuaded by this argument since actions taken with regard to other personnel does not negate the fact you committed misconduct. Further, the Board was unable to determine whether the circumstances of the other personnel matched yours. Finally, you argue that the Article 134 (fraternization) charge did not relate to the liberty incident and was unjustly added to the NJP at the last minute. The Board concurred with the AO that it is common practice to include all offenses in a single NJP, instead of issuing multiple NJPs. Therefore, the Board found no error or injustice with your NJP. Based on these findings, the Board also concluded that your promotion to LTJG was appropriately delayed.

Consequently, the Board determined there was no material error or injustice regarding the NJP or PLOR and that the adverse documentation shall remain in your record. In addition, as the adverse documentation remains in your record, there is insufficient evidence warranting a backdate of your promotion to O-3. 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,

8/15/2022

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Executive Director

A black rectangular redaction box covering the contact information of the Executive Director.