



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. 1317-22
Ref: Signature Date

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Dear █

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 12 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. In addition, the Board considered the advisory opinion by Navy Personnel Command (PERS-00J), 20 April 2022 which was previously provided to you for comment.

You requested transfer to the Fleet Reserve. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that you are not eligible for retirement in accordance with Title 10, U.S.C. 12740. Specifically, the law indicates, a person who is convicted of an offense under the Uniformed Code of Military Justice that is separated pursuant to sentence of a court-martial with a Bad Conduct Discharge (BCD) is not eligible for retired pay—the law does not specify retirement eligibility upon characterization of service upgrade by clemency. A review of your record reflects on 1 February 2018, a General Court-Martial was convened charging you with violation of Article 120, Rape (four specifications), and Article 134, Patronizing a Prostitute (three specifications). On 22 January 2019, you acknowledged, “My defense counsel has advised me that any punitive discharge that is adjudged and ultimately approved in my case may adversely affect my ability to receive retirement pay and any and all other veterans benefits accrued as a result of my military service.” On 14 March 2019, you were found guilty of violation of Article 134 (three specifications). You were awarded confinement for 30-months, a Dishonorable Discharge, and were reduced in rank to Logistic Specialist Seaman Recruit/E-1.

