



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. 1532-22
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.

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your applications on 9 June 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

In your current request, you contend that the command did not record or provide any evidence of counselings, advisement of rights, advisement of legal counsel, recorded factors regarding the NJP, or any investigation into the matter from the date of the incident (11 June 1972) to the date of the NJP. This Board previously denied your request to remove your NJP on 14 February 1991. A request for reconsideration was administratively closed on 9 February 2018 due to lack of new evidence.

You presented as new evidence, Ship Deck Logs dated 17-24 June 1972 and a supplemental letter explaining your current contentions from your previous application. You also resubmitted Ship Deck Logs dated 1-11-16 June 1972, which were provided to the previous panel of this Board. In light of this, the Board carefully considered your request to remove your non-judicial punishment (NJP) dated 16 June 1972.

The Board, however, determined that your contentions are without merit. The Board was not persuaded by your new statement that the NJP was in error or unjust. Further, the Board also did not find the newly submitted Ship Deck Logs to be persuasive on the issue. While the Board

considered your arguments concerning the lack of documentation in the logs regarding your due process rights, they concluded the presumption of regularity applies in your case. 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. The Board determined that pointing out that a lack of documentation exists in your record or ships deck log does not meet the requirement of substantial evidence needed to overcome the presumption of regularity in your case. The Board thus concluded that you have not provided sufficient evidence of error or injustice warranting removal of the NJP from your official personnel file. 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,

7/1/2022



Executive Director

Signed by: 