



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

██████████
Docket No. 1805-22
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 19 July 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 also considered the advisory opinion (AO) by the Office of Legal Counsel (PERS-00J) dated 20 April 2022, and your response to the AO.

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.

The Board carefully reviewed your request to remove your nonjudicial punishment (NJP) held on 26 July 2021 and to reinstate your rank to Petty Officer First Class/HM1. The Board considered your contentions that the punishment awarded was based on the police statement submitted, in which you disputed, and your spouse submitted a statement for the record as to the incident explaining her action and involvement in the charges, in which she denies any abuse on your part.

The Board substantially concurred with the AO, that given the presumption of regularity, your petition amounts to an unsupported claim that the actions taken by your command were incorrect and improper. This unsupported claim is not enough to overcome the objective evidence of your actions, which were investigated by the command and its connection to the issuing official's

decision to impose NJP for failing assault consummated by battery and domestic violence. The Board noted that prior to the imposition of NJP, you acknowledged your Article 31, UCMJ Rights, you consulted with counsel, and you accepted NJP. Despite your denial of the allegations, your spouse's statement that you did not assault her, and the actions by the [REDACTED] Attorney to not issue charges at this time, the CO relied on the evidence before him, found you guilty, and you did not appeal the proceedings. The Board thus determined that the CO had the authority to impose NJP based on his position and the nature of the offenses. The Board further determined that your NJP is valid, was conducted in accordance with the Manual for Courts-Martial, and your CO was justified in taking appropriate measures given your actions. The Board noted that you were subsequently issued an adverse special evaluation for the reporting period, to which you accepted the outcome of the NJP, took full responsibility for your actions, and did not submit a statement to the contrary. 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,

8/8/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]