



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

██████████
Docket No. 2725-22
Ref: Signature Date

████████████████████
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████████████████████

Dear ██████████:

This is in reference to your reconsideration request for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. You previously petitioned the Board for Correction of Naval Records (Board) and were advised in the letter dated 5 August 2020 that the Board denied relief regarding your request to have your name restored to the Fiscal Year (FY) 2019 Navy Active Duty Chief Petty Officer Selection List. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your reconsideration request has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 27 October 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 29 August 2022 advisory opinion (AO) furnished by the Office of Legal Counsel (PERS-00J). The AO was provided to you on 12 September 2022, and you were given 30 days in which to submit a response.

On 29 July 2017 the New Jersey State Police arrested and charged you with a violation of New Jersey Statute for unlawful possession of a handgun without a permit. You were also cited for two moving violations; failure to secure a child aged 8-18 with a seatbelt, and driving a commercial vehicle on an unauthorized roadway. On 20 September 2018, the Commander, Navy Personnel Command notified you that the Chief of Naval Personnel (CNP) removed your name from the FY-19 Navy Active Duty Chief Petty Officer Selection Board list.

The Board carefully considered your reconsideration request to restore your name to the FY-19 Navy Active Duty Chief Petty Officer Selection list and to receive retroactive payment for all monetary entitlements you should have received. The Board noted that for this reconsideration request the only new evidence you provided was an endorsement of your request from the Commanding Officer, ██████████ and the 23 November 2021 Order from the

Superior Court of [REDACTED] expunging the 2017 charges from your record. The Board further noted that your charges were expunged only due to your agreement with the [REDACTED] State Prosecutor to enter into a pre-trial intervention program. The program mandated that you stay in a probationary status for 18 months.

The Board concurred with the AO that in accordance with BUPERSINST 1430.16G CH-1, the CNP is the sole authority for advancement of personnel to the paygrades of E-7 to E-9. The Board found that the CNP had the authority to consider the 2017 arrest in determining whether to advance you, even if there was no civilian or punitive action taken. Moreover, the Board concluded that your advancement to E-7 by the FY-22 Navy Active Duty Chief Petty Officer Selection Board did not invalidate the CNP's 2018 decision to disapprove your promotion to Chief Petty Officer. Consequently, the Board determined that your removal from the FY-19 Navy Active Duty Chief Petty Officer Selection Board list was valid and shall remain in your official military personnel file as written.

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,

11/15/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]