



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. 3255-22
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.

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 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 determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove a nonjudicial punishment (NJP) dated 27 February 2018, Evaluation Report and Counseling Record (EVAL) for the reporting period 20 January 2018 to 27 February 2018, and an Administrative Remarks (Page 13) entry dated 27 February 2018 from your official military personnel file (OMPF). Additionally, you requested repayment of the forfeiture received at NJP. Lastly, in the event your requested relief was denied, you requested to have the civilian court documents added to your OMPF where "aforementioned documents are displayed and viewable." You contend you were "found guilty" of violating Articles 80 and 92 of the Uniform Code of Military Justice prior to your civilian court date and ultimate expungement of the charge. You further contend you submitted your military identification card upon arrest, spoke to a Naval Criminal Investigative Service (NCIS) Agent via the arresting officer's cell phone, and was told your command would be contacted by

the NCIS Agent. You also contend the NJP refers to alcohol during the arrest but no alcohol was present. The Board considered the documents submitted in support of your contention, to include the civilian court documents, heavily redacted arrest/juvenile contact report, defense service office document, EVALs, and awards.

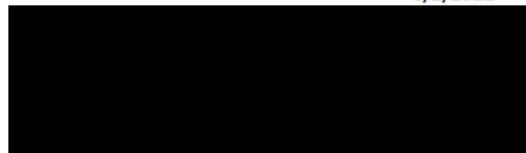
The Board determined there was insufficient evidence of an error or injustice in the Commanding Officer's (CO) NJP decision and concluded your NJP should remain unchanged in your OMPF. Specifically, your contentions and supporting documentation provided insufficient evidence of an error or injustice to overcome the presumption the CO had sufficient evidence on which to base a guilty finding at NJP. The Board noted discrepancies between your contentions and what the contested documents state occurred. Specifically, you contend your violation of Article 80 was for disturbing the peace with loud noises but the Page 13 states you violated Article 80 when you attempted to wrongfully procure a prostitute. Based on the available evidence, the Board concluded there was insufficient evidence of an error or injustice to warrant removing the NJP from your record. As your NJP was not removed, the Board further concluded the additional relief you requested, i.e. repayment of forfeitures, removal of the adverse Page 13 and EVAL, should also be denied. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding your request to add the civilian court documents to your OMPF, the Board is not authorized to do so as they constitute adverse information. However, the Board recommended you contact Navy Personnel Command and request addition of the information.

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,

8/2/2022

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Deputy Director

Signed by: 