



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

█  
Docket No. 3903-22  
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 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 carefully considered your request to remove your 28 June 2021 unit punishment book (UPB)/non-judicial punishment (NJP) and related page 11 entries. The Board considered your contention that the administrative separation (ADSEP) board found that you were not guilty and recommended your retention on active duty. You assert that both records are invalid and should be removed because they are affecting your career and ability to compete with your peers.

The Board, however, determined that the NJP and related page 11 entries are valid. In this regard, the Board that noted you received NJP for violating Article 112a, Uniform Code of Military Justice (UCMJ) for the wrongful use of a controlled substance. The Board also noted that you acknowledged your Article 31, UCMJ Rights, you accepted NJP, certified that you were given the opportunity to consult with a military lawyer, acknowledged your right to appeal, and you elected not to appeal your commanding officer's (CO's) finding of guilt at NJP. Based upon the available evidence, the Board found no errors and determined that your NJP was conducted pursuant to the *Manual for Courts-Martial* (2019 ed.).

Concerning the findings of your ADSEP board, the Board determined that NJP and an ADSEP board are separate processes with different functions. An ADSEP board is administrative in nature with the fundamental purpose of determining your suitability to continue to serve, while NJP is disciplinary in nature. The Board also determined that findings of your ADSEP board do not invalidate your CO's finding of guilt at NJP. Moreover, it is not a material error or injustice for two separate fact-finding bodies to arrive at different conclusions.

You also indicated in your application (DD Form 149, Section 3: Block 13) that your case involves other mental health concerns. The Board, however, found no evidence of a mental health diagnosis in your record and you provided no evidence with your application to support your assertion. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice regarding the NJP or related page 11 entries. 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,

7/28/2022

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Deputy Director

Signed by: █