



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. 4147-22
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 applications on 12 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 applications, 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 11 October 2017 non-judicial punishment (NJP) and all associated documents. The Board noted that, on 11 October 2017, you received NJP for violation of the Uniform Code of Military Justice (UCMJ), Article 134 (Adultery) for having sexual intercourse with a married woman that was not your wife and that said conduct was prejudice to good order and discipline. Consequently, you were issued an adverse 6105 (Page 11) counseling and an adverse Fitness Report. The Board considered your contentions that the language in the NJP makes it sound as if you were married, that it may negatively affect future selection boards, and that although you accepted the punishment, you feel as though are still being punished.

With regard to your NJP, the Board determined that the Marine Corps properly followed all of its procedures for awarding an NJP. You were advised of your right to refuse NJP and demand trial by court-martial in lieu of NJP, but you chose not to. You were also given an opportunity to consult counsel prior to accepting NJP. You agreed to accept NJP subject to your right of appeal but you did not appeal. The Board thus determined that your Commanding Officer was well within his discretionary authority to impose NJP. The Board was not persuaded by your

arguments that the charging language was erroneous and found the specification appropriate in light of the charged offense. Nor was the Board swayed by your belief that the NJP is unjust simply because it may affect your future selection board competitiveness or because you feel that you are still being punished due to its existence in your record. Finally, the Board further noted that there is no clemency period for granting relief for a properly administered UPB based on "good behavior". As a result, the Board concluded that there is insufficient evidence of error or injustice regarding the NJP and all associated documents. 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,

7/22/2022

[REDACTED]

Executive Director

[REDACTED]