



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: 5463-22

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 27 September 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, as well as the 8 August 2022 advisory opinion (AO) furnished by the Navy Personnel Command (PERS-32). The AO was provided to you on 10 August 2022, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to remove your evaluation report (Eval) for the reporting period 16 November 2020 to 15 November 2021. The Board considered your contentions that your administrative separation (ADSEP) board found no basis for your separation and your file is no longer flagged in the Navy Alcohol and Drug Abuse Prevention (NADAP) system. You assert that since the infraction administratively no longer exists, the adverse Eval should be removed.

The Board, however, substantially concurred with the AO that your Eval is valid. In this regard, the Board noted that your Eval was marked 1.0 for three performance traits and your reporting senior (RS) commented that you are being processed for administrative separation due to a positive urinalysis, your RS did not recommend you for retention or advancement, and marked your promotion recommendation "Significant Problems." The Board also noted that you acknowledged the Eval and indicated that you did not intend to submit a statement. The Board

determined that your decision not to make a statement indicates that you understood the adverse nature of the Eval. The Board also determined that according to the Navy Performance Evaluation System Manual, your RS was authorized to issue your Eval due to your confirmed illegal drug use. Moreover, the outcome of the ADSEP board proceedings does not invalidate the basis for your contested Eval. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the Eval from your record. 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,

10/6/2022

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Executive Director

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