



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

██████████  
Docket No. 5752-22  
Ref: Signature Date

██  
██  
██  
██

Dear ██████████

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 20 December 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, as well as the 4 October 2022 Advisory Opinion (AO) provided by the Office of Legal Counsel (BUPERS-00J), as well as your 1 December 2022 response.

The Board carefully considered your request to remove any reference to a revocation of your Special Operator (SO) Navy Enlisted Classification (NEC), to reinstate all rights as a Navy Sea Air and Land (SEAL) member, including return of his Special Warfare Insignia ("Trident") and reinstate all back pay and benefits, including special duty pays and any reenlistment bonus he would have received as a SEAL, as of the wrongful forced conversion on 8 April 2016. You also request advancement to E-6, and any other relief deemed necessary and just.

The Board considered your contention that the NEC, or Trident Review Board was not convened in accordance with Commander, Naval Special Warfare Command Instruction 1221.1, nor were procedural requirements followed, which denied you your due process. Specifically, you assert you were not timely notified of the Trident Review Board, you were not permitted an opportunity to present evidence during the Trident Review Board, and you never saw a finding report following the Trident Review Board. You also content that the involuntary change of rating was contrary to procedure and it was done as an act of retaliation. The Board also considered your arguments that you were never sent to a Disciplinary Review Board or

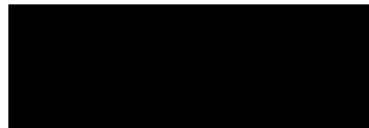
Executive Officer Inquiry prior to your Trident Review Board, and that there is no NEC Change Request (NAVPERS 1221/6) in your official military personnel file.

In response to the AO, you maintain that the NEC and special pay was improperly removed and denied. The Board, however, substantially concurred with the AO that the removal of Petitioner's NEC and special pay was proper based on his CO's loss of confidence. Specifically, the Board noted, that between January and November of 2015, you received multiple counseling's which annotated deficiencies which you were instructed needed to be corrected. Further, the Board noted that although the COMNAVSPECWARCOM Instruction 1221.30 strongly encourages Commanding Officers to conduct a NEC Review Board it is not required. The Board noted that based upon your own description of the requirements as well as further review of the policy you provided, that your command conducted the NEC Review Board on 31 March 2016. Thus, the Board determined the evidence did not demonstrate that a material error or injustice occurred which would warrant corrective action. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption.

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,

3/27/2023

A large black rectangular redaction box covering the signature of the Deputy Director.

Deputy Director

Signed by: 