



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. 6256-22
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 applications on 15 November 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 also considered the 14 September 2022 Advisory Opinion (AO) furnished by the Office of Legal Counsel (BUPERS-00J), which was provided to you on 29 September 2022, at which time you provided two emails as your rebuttal.

The Board carefully considered your request to remove your nonjudicial punishment (NJP) and reinstatement of your in the rate (RSS/E-3). The Board considered your contention that your command did not follow proper unauthorized-absence protocol and your claim that you were harshly punished for a “miscommunication error.”

The Board noted that on 20 April 2022 you were NJP’d for violation of the Uniform Code of Military Justice, Article 86 (Absence from unit, organization, or place of duty). Specifically, on or about 8 April 2022 without authority you did absent yourself from your unit and did remain so absent until 11 April 2022.

The Board considered your contention that the command did not follow proper protocol and your claim that you were harshly punished for a miscommunication error. However, the Board substantially concurred with BUPERS-00J AO which determined it was your responsibility to verify your leave status before absenting your unit which was incumbent upon you to do so. The Board noted that you requested leave through your Lead Petty Officer who you claim informed you over the phone that it was approved. The Board noted, too, that you acknowledged you did

not take any further steps to verify the approval of your leave. Finally, the Board determined that your commanding officer was well within his discretionary authority to impose NJP, and your belief that the action taken against you was too harsh does not make it improper. The Board thus concluded that your request is lacking in substantial evidence of error or injustice.

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,

12/15/2022

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Deputy Director

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