

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

> Docket No. 7081-22 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 5 October 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.

On 28 November 2018, you entered active duty for 4 years with an end of active obligated service of 27 November 2021.

On 16 November 2020, Report and Disposition of Offense(s) was issued to

. On 4 December 2020, you were subject to Commanding Officer's mast. You were charged with the following: Charge I: Violation of the Uniform Code of Military Justice (UCMJ), Article 112a (Wrongful use, possession, etc., of controlled substances).

On 8 December 2020, Commanding Officer, notified Commander, Navy Personnel Command (PERS 313) via you and Commanding Officer,

, that on 4 December 2020, Non-Judicial Punishment was imposed on you for violation of the Uniformed Code of Military Justice, Article 112a. That it is the intent of the CO to pursue further administrative action on you at that time.

On 5 March 2021, Commanding Officer, not notified not notified with the UCMJ of the UCMJ of the UCMJ Article 112a for admission to use and purchasing LSD to NCIS. You were notified of

administrative separation on 14 January 2021 with a General under honorable conditions. You were separated from the Navy on 5 March 2021.

You were discharged with an Under Honorable Conditions (General) character of service and were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 28 November 2018 to 5 March 2021 for misconduct (Drug abuse).

In accordance with DoD 7000.14-R FMR Volume 16, Chapter 3. Priority of Pay Deductions and Collections. Unsatisfied debts at discharge or retirement will be deducted from subsequent payments due the member.

On 26 March 2021, you base pay was stopped effective 5 March 2021.

Your Leave and Earnings Statements (LES) issued after your separation listed a leave balance of 16.5 days and that you were paid \$1,100.39 for 16.5 of unused leave.

On 1 July 2022, Defense Finance & Accounting Service (DFAS) notified you of your indebtedness to the U.S. Government. Your debt was due to a mid-month payment of \$1,722.60 of 15 March 2021. This payment was for 15 days. Due to your date of separation, you were only entitled to 5 days.

You requested payment for 16.5 days of unused leave; the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that in accordance with your LES issued after your separation, you were paid \$1,100.39 for 16.5 of unused leave; however, you owe a debt to the government for erroneous active duty pay and allowances you received. Your leave payment was used to offset the debt you owe to DFAS. In accordance with the DoD 7000.14-R FMR Volume 16, Chapter 3, unsatisfied debts at discharge will be deducted from subsequent payments due the member.

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,