



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

██████████
Docket No: 7087-22
Ref: Signature Date

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██
██

Dear Petitioner:

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 18 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.

The Board carefully considered your request to remove your 10 June 2011 unit punishment book (UPB)/non-judicial punishment (NJP). You contend that the UPB is erroneous because it contains the name of private first class (PFC) RTW and there is no associated page 11 entry.

The Board noted that you received NJP on for violating Article 92 (Failure to Obey a Lawful Written Order), Uniform Code of Military Justice (UCMJ). You were awarded forfeiture of pay, restriction, and extra duty. As evidenced by your signature, the Board also noted that you acknowledged your Article 31, UCMJ Rights, you accepted NJP, and elected not to appeal your Commanding Officer's (CO's) finding of guilt at NJP.

The Board noted that block 1 of the UPB contains the name PFC RTW, and determined that the erroneous name constitutes a scrivener's error. The Board determined that the error was not material to your NJP and had no bearing on the CO's decision to impose NJP or the awarded punishment. The Board found no evidence that the NJP was erroneous, however, the Board did find sufficient evidence that you did receive NJP. In this regard, all sections of the UPB that require the member's acknowledgment by signing the UPB contain your signature, block 21

contains your social security number, and the Marine Corps Total Forces System contains entries documenting your NJP and forfeitures of pay. The Board also determined that your NJP was conducted according to the *Manual for Courts-Martial* (2008 ed.) and your CO acted within his discretionary authority when determining that you committed misconduct that warranted NJP. Moreover, your CO was not required to issue a page 11 entry and the absence of a page 11 entry does not invalidate your NJP. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the UPB entry. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

11/9/2022

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

Executive Director

A black rectangular redaction box covering the contact information of the Executive Director.