



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

██████████  
Docket No. 7693-22  
Ref: Signature Date

████████████████████  
████████████████████  
████████████████████████████████████████  
████████████████████  
████████████████████

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.

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your applications on 7 March 2023. 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, to include the Secretary of Defense Memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder," 3 September 2014 (Hagel Memo), the Under Secretary of Defense Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," 25 August 2017 (Kurta Memo), and the Under Secretary of Defense Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Clemency Determinations," 25 July 2018 (Wilkie Memo), as well as the 11 January 2023 advisory opinion (AO) furnished by a licensed clinical psychologist. The AO was provided to you on 13 January 2023 and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

Regarding your request for a personal appearance, the Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your 11 December 2002 and 8 December 2004 non-judicial punishments (NJP), entitlement to back pay, reinstatement of your Navy Good Conduct

Medal (NGCM), and to change your 'RE-3P' reentry code. You also request to remove the bad review written by the "CFAO," and to correct the status of your citizenship. The Board considered your contentions that you were targeted by racism, you were dealing with undiagnosed mental health issues at the time, and the command did not take your issues seriously, which resulted in drinking problems and self-medicating. You claim that you were a citizen before you enlisted. To support your contentions, you provided a personal statement describing the issues you dealt with during your enlistment for the Board's consideration.

The Board, however, substantially concur with the AO. In this regard, the Board found no evidence that you were suffering from or were diagnosed with a mental health condition and you provided none. The Board determined that there is insufficient evidence of a nexus between your misconduct and any purported mental health condition. The Board noted that you received NJP during December 2002 for drunk and disorderly conduct and during December 2004, you received NJP for assaulting two separate military law enforcement agents and for disorderly conduct. The Board found no evidence that your NJPs are invalid or that your commanding officer violated the *Manual for Courts-Martial* (2002 ed).

The Board also noted that according to your DD 214, you were discharged as a result of a disability and you were awarded disability severance pay. As a result of your separation due to a disability and according to the Naval Military Personnel Manual 1910-168, the Board determined that the RE-3P reentry code was properly assigned. The Board noted, too, that you served on active duty for five years, and your DD 214 indicates that you were awarded the NGCM during that time. According to the Navy and Marine Corps Award Manual, the NGCM is awarded after three years of continuous service and the individual must have had no NJPs. Based on the available evidence, the Board determined that you did not meet the eligibility criteria for a subsequent NGCM.

Regarding your request to remove the review written by the "CFAO," the Board found no evidence of the contested document. Accordingly, the Board found no basis to grant relief and concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

Concerning the status of your citizenship, the Board determined that issues related to citizenship are not within the Board's purview. You also indicate in your application (by checking block 13 "sexual assault/harassment") that you are the victim of sexual assault/harassment and reprisal, however, you provide no evidence to support this claim. The Board, determined that there was insufficient evidence to conclude you were the victim of harassment or reprisal in violation of 10 U.S.C. Section 1034.

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,

3/30/2023

