



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. 8610-22
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 29 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 application, together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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, seal or correct the 2 August 2001, unit punishment book (UPB)/non-judicial punishment (NJP). The Board considered that you were never placed in confinement or arrested, and you would like the NJP removed so it does not affect your employment and your application to obtain an Alcohol Tabaco, Firearms, and Explosives (ATFE) Form 4 Firearm. You claim that the NJP affects your employment opportunities and your ability to obtain a firearm. You also claim that you were interviewed about other Marines and a record of the interview is visible during back ground checks. You contend that you told the truth about the other Marines who were ultimately court-martialed and discharged. Lastly, you assert that you learned from your mistake and ultimately served for 13 years in the military and obtained a Top Secret/SCI clearance while on Embassy Duty.

The Board noted that you received NJP for violating Uniform Code of Military Justice (UCMJ) Article 134 for obtaining an Armed Forces Identification Card with a falsified date of birth for the purpose of gaining access to establishments and illegally consuming alcoholic beverages while under the legal drinking age. Your Commanding Officer (CO) found you guilty at NJP and awarded forfeiture of pay, and extra duty. The Board determined that your NJP is valid and you provided no mitigating circumstances regarding your misconduct. The Board determined that your CO conducted your NJP pursuant to the *Manual for Courts-Martial* (2000 ed.). The Board considered your statement, but found no basis to support the removal of your NJP. Regarding the information visible during background checks, the Board found your evidence insufficient to determine the nexus between your statement about the other Marines and your NJP. Finally, in making their finding, the Board considered that you were able to obtain and maintain a Top Secret/SCI clearance despite the existence of the NJP in your record. Based on these factors, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the NJP from your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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, _____

1/3/2023

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Executive Director

Signed by: █