



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

█
Docket No. 8715-22
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 31 January 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 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 your 21 December 2017 unit punishment book (UPB)/non-judicial punishment (NJP). You also request promotion to first lieutenant (1stLt/O-2), and a commission in the Marine Corps Reserves. The Board considered your statement and contentions that the Marine Corps' updated tattoo policy demonstrates that the 2016 tattoo policy was overly restrictive, not consistent with the public opinion of tattoos, and did not accurately represent the public opinion of people with tattoos. You claim that the October 2021 change to the Marine Corps tattoo policy put your forearm tattoos in compliance.

The Board noted that you received NJP for violating Article 92, Uniform Code of Military Justice (UCMJ) for getting tattoos that were not in compliance with regulations. The Board also

noted that your Report of NJP indicated that you pleaded guilty to violating Article 92 at NJP, the CO found you guilty, and you were awarded a punitive letter of reprimand. The Board noted, too, that you acknowledged your Article 31, UCMJ Rights, accepted NJP, certified that you were given the opportunity to consult with a military lawyer, acknowledged your right to appeal, and you elected not to appeal your Commanding Officer's (CO's) finding of guilt at NJP. The Board found no error regarding the conduct of your NJP and determined that your NJP was conducted pursuant to the *Manual for Courts-Martial* (2016 ed.).

The Board noted that Marine Corps Bulletin 1020 does not provide a provision for the retroactive application of the regulation. Therefore, the Board determined that the change in policy does not invalidate your NJP nor, in the opinion of the Board, does it create an injustice in your record. The Board also determined that the Deputy Commandant, Manpower and Reserve Affairs' (DC, M&RA) denial for a reserve commission is valid. In this regard, according to the Marine Corps Officer Promotion Manual, the DC, M&RA was authorized to screen your record for adverse material prior to making a determination regarding your suitability to a reserve commission.

Regarding your request for promotion to 1stLt, pursuant to the 10 February 2015, Under Secretary of Defense Memorandum, the Board does not have the authority to grant your request for promotion when you have not been appointed to 1stLt by the Secretary of Defense. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

2/12/2023

█