



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. 9249-22
Ref: Signature Date

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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.

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.

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 change your reentry code, reinstate your rank to E-5, and entitlement to back pay and allowances. The Board considered your contention that the reentry code and demotion was unjust and occurred after your lieutenant discovered you were not reenlisting. You claim that you were called in to the office, accused of not performing your duties, counseled for not answering calls in the Call Center all day, and as a result, you were demoted to E-4. When asked again if you were going to reenlist, you said "no," and also claim that the "first lieutenant hurled your personnel file at you" and said, "you ain't never going to be nothing!" You assert that you have been denied government employment and this has affected your lifelong employment opportunities. In support of your contentions, you furnished your DD 214, medical records, and excerpts from the Naval Military Personnel Command Instruction

(NAVMILPERSCOMINST). In addition, you furnished a statement for the Board's consideration.

The Board noted that you received non-judicial punishment (NJP) on 26 January 1984, 31 January 1985, and 25 June 1985. The Board determined that your NJPs are valid and were conducted according to the *Manual for Courts-Martial* (1984 ed). The Board also noted that according to your DD 214, you were assigned the reentry code RE-4, not recommending you for reenlistment. The Board determined that your commanding officer (CO) properly exercised his discretionary authority by assigning the RE-4 reentry code based on your misconduct.

Concerning your claims regarding your chain of command, the Board found no evidence to support your claims and you provided none. Therefore, the Board relied on the presumption of regularity in determining that you were properly reduced in paygrade to E-4 based on your 31 January 1985 NJP, and not entitled to reinstatement to E-5 or back pay. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

3/27/2023

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Executive Director

Signed by:

A solid black redaction box covering the name of the Executive Director.