



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. 2114-23
Ref: Signature Date

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Dear Petitioner:

This 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 25 April 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 10 June 2020 nonjudicial punishment (NJP) and all associated documents. The Board considered your contentions that the NJP was unjust, was conducted improperly, and your command leadership abused their power by directing the investigating officers to find you guilty of anything. The Board also considered your claim that the NJP was done to remove you from the command, as the result of an equal opportunity complaint that was submitted on the unit leaders, and resulted in your relief for cause, loss of promotion, loss of good conduct medal eligibility and forced retirement.

The Board noted, on 10 June 2020, you received NJP for Violation of the Uniform Code of Military Justice (UCMJ), Article 92, Failure to Obey an Order or Regulation by violating the Prohibited Activities and Conduct Prevention and Response Policy, specifically, harassment. As

punishment, you received forfeiture of half months pay for two months, which was suspended for six months.

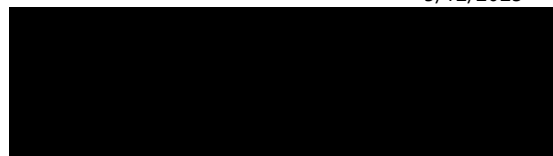
In regards to your contention that the NJP was unjust and improperly conducted, the Board determined that there was insufficient evidence to support this claim. As a result, the Board relied on the presumption of regularity that the Marine Corps properly followed all of its procedures for awarding an NJP. Based on evidence in your record, you were properly advised of your right to refuse NJP and demand trial by court-martial in lieu of NJP, but you chose not to. You were also given an opportunity to consult counsel prior to accepting NJP. Ultimately, you agreed to accept NJP and, even though offered an opportunity to appeal, you did not appeal the NJP. The Board thus determined that your Commanding Officer was well within his discretionary authority to impose NJP and properly did so.

Regarding your claim that the Commanding Officer and Sergeant Major abused their power and directed the investigating officers to find you guilty, the Board noted that you did not provide the investigation in question. However, the Board noted that, on 28 September 2020, the Inspector General (IG) of the Marine Corps responded to your IG complaint regarding the circumstances of your case. In its letter, the IG informed you a thorough inquiry was conducted into the issues raised by your complaint. Ultimately, the IG determined that no violation of an order, rule, or regulation occurred in reviewing your allegations. Thus, the Board determined that insufficient evidence exists to support a finding that abuse of authority occurred in your case. As a result of the foregoing, the Board concluded that there is no probable material error or injustice warranting removal of your NJP, or any of the associated documents. Further, based on this finding, the Board also concluded there was no error or injustice with the administrative actions you allege were unlawful. 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,

5/12/2023

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Deputy Director

Signed by: 