



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



Docket No. 2122-23
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 18 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies.

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 nonjudicial punishment (NJP) held on 11 January 1989. The Board considered your contentions that you received unjust punishment for being accused of sleeping on duty, the staff sergeant (SSgt) never walked around and confirmed your eyes were shut as you were sitting, and the colonel said the SSgt was wrong for not waking you to see if you were really sleeping. You further contend that the captain said he was going to see you lose rank, but they had no proof you were sleeping. You argue that your service record was clean for six to seven years until you came under the authority of a racist officer. As evidence to support your contentions, you provided a personal statement describing the issues you dealt with during your time at [REDACTED] a witness statement, various pages of your records, and evaluations. The Board acknowledged that you marked post-traumatic stress disorder, other mental health, and sexual assault/harassment on your application; however, noted

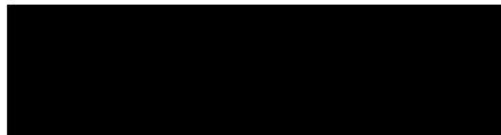
that you failed to provide any evidence in support of your claim and did not discuss these issues in relation to your contentions.

The Board determined, upon review of your records, your NJP was valid at the time of imposition and the punishment imposed was in accordance with appropriate Manual for Court-Martial guidance. 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. In this regard, the Board noted that you did not provide sufficient evidence to show that the NJP, and resulting punishment, was in error or unjust. The Board, therefore, found you failed to overcome this presumption. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action for the removal of your 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,

5/8/2023

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Executive Director

Signed by:

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