



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. 2136-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 8 June 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.

The Board carefully considered your request to reinstate your pay grade from E-3 to E-5 and to remove the 25 April 2003, 19 May 2003, and 26 May 2003 non-judicial punishments (NJP). The Board considered your contentions that your first NJP was due to a medical emergency. You were ill, had lost weight, your immediate superior ordered you to remain in your rack, and you were charged with being in an unauthorized absence (UA) status from the uniform inspection. You claim that the Captain personally expressed his apology and regret that "what was done cannot be undone". You also contend that your second NJP was 100% due to fabricated charges. You were harassed by a group that would send you to work in one area, then write you up as being UA from another area. You admit that it was not until your third NJP that you were actually guilty of anything worthy of NJP. You were admittedly guilty of attempting to expedite the inevitable bad conduct discharge that was seemingly being set up for you, and your absence was an unprofessional mistake. You also claim that you were suicidal, hallucinating, and ripping the skin and flesh from the backs of your hands at the time. Due to severe mental illness, you were not in control of your faculties to take full responsibility. You belonged in a mental ward, not the brig and you believe justice would be further served by expunging all three rulings. You

further claim that you were targeted for being a proud overachiever and for being in a bi-racial relationship and your mental health symptoms were attributed to the NJP charges.

The Board noted that you receive NJP on 25 April 2003, for failure to go to your appointed place of duty and four specifications of insubordinate conduct towards a noncommissioned officer. Additionally, you were issued an administrative counseling (page 13) concerning deficiencies in your performance and conduct. On or about May 2003, you received a second NJP. Then on 26 May 2003, you received your third NJP for three specifications of failure to go to the prescribed place of duty.

The Board substantially concurred with the 23 December 2022, advisory opinion provided by the Licensed Clinical Psychologist for the previous Board's consideration (Docket No. 7854-22). In this regard, the Board noted that you submitted evidence of service connected Major Depressive Disorder, however, there is no evidence that you were diagnosed with a mental health condition during your military service. The Board also noted your statement indicating that the majority of your misconduct was due to harassment and false charges. The Board determined that your Commanding Officer was the fact-finding body during NJP, thus he/she was best situated to determine if NJP was warranted, and to determine your guilty or innocence at NJP. The Board found that your petition lacks sufficient evidence that the NJPs were improper, due to harassment or due to fabricated changes. The Board noted, too, that your misconduct demonstrates a pattern of misconduct and concluded that there is insufficient evidence that all of your misconduct is attributed to a mental health condition. Accordingly, given the totality of the circumstances, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting 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,

6/13/2023

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Deputy Director

Signed by: █