



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

█  
Docket No. 5442-23  
Ref: Signature Date

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█  
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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 28 September 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. In addition, the Board considered the advisory opinion by the Office of the Chief of Naval Operations (N130C3) of 15 August 2023 and your response to the opinion.

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.

On 2 May 2017, you entered active duty for 4 years with an end of active obligated service (EAOS) of 1 May 2021 and Soft EAOS of 1 May 2022. On 15 March 2021, you signed an agreement to extend enlistment for 11 months with a Soft EAOS of 1 April 2023 in order to incur sufficient obligated service to execute BUPERS order 0051.

On 10 June 2022, you were subject to non-judicial punishment for violation of Article 82 and Article 112a. Punishment awarded was forfeiture of half pay per month for 2 months, reduction in rank to E-4, and extra duties for 45 days.

On 29 June 2022, your Master Military Pay Account (MMPA) shows that your reduction in rank and forfeitures posted effective 10 June 2022. Your monthly rate was reduced from \$3,058.50 to \$2,786.70, which created a debt of the amount of \$2,140.95.

You were discharged with an under honorable conditions (General) character of service and were issued a DD Form 214, Certificate of Release or Discharge from Active Duty for the period of 2 May 2017 to 20 July 2022 due to Misconduct – Serious Offense.

You were issued a Defense Finance and Accounting Service (DFAS) Military Leave and Earnings Statement for the period of 1 July 2022 to 31 July 2022 with an indebtedness due to government of \$3,996.44.

On 30 August 2022, your MMPA shows that your base pay stopped effective 20 July 2022 creating a debt of \$3,715.60. Furthermore, your MMPA shows that you received a lump sum leave payment of \$2,508.03 for 27 days.

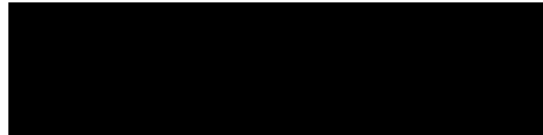
On 23 December 2022, DFAS issued you a bill listing payment due date of 23 December 2022 for \$3,096.69 with an installment due of \$87.35. Debt is due to payments received after you entered a no pay status due to separation as of 20 July 2022. These payments are as follows: mid-month payment of \$1,684.90, dated 15 August 2022, and end-month payment of \$1,684.39 dated 30 August 2022.

You requested the debt in the amount of \$3,096.69 applied by DFAS due to overpayment be removed. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that your debt is the result of your drop from the service that was posted on 30 August 2022 backdated to the date of your discharge on 20 July 2022. This resulted in payments made to you while you were not entitled to basic pay. Furthermore, as a result of non-judicial punishment on 10 June 2022, you were awarded a reduction in rank and forfeiture of half month's pay for two months. Your reduction in rank and forfeitures were not reported until 29 June 2022, which created an overpayment for the pay you received after 10 June 2022. You assert that you have received no payments for mid-month and end of month for August 2022. The Board could not determine if this is correct because the statement you provided from Navy Federal Credit Union was incomplete. You only provided page 8 of 10 which only shows the items paid from the account for the month of August 2022 and does not show any deposits. Furthermore, you did not provide evidence that you have attempted to resolve the issue with DFAS. The Board concluded you were paid monies which were not earned or authorized and the collection action initiated by DFAS is appropriate. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

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,

10/2/2023



Deputy Director

Signed by: █