

## DEPARTMENT OF THE NAVY

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

> Docket No. 6314-23 Ref: Signature Date



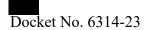
## Dear

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 12 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.

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 the 11 May 2023 Report and Disposition of Offense(s)/non-judicial punishment (NJP). The Board considered your statement that you accepted failure for your error, but it is difficult to understand how another officer who approved \$10K, and was far more involved in the case was dismissed. You contend that the \$356.00 approval should not have resulted in NJP due to all of the great things you have done for the Navy. In your statement, you provided that you were the for the a Fiscal Year (FY) 2023 Command/Milestone select, and an officer doing a demanding duty with recruiting. You also contend that reprisal exist in this case. You informed your legal counsel (JAG) that you did not plead not guilty at mast; however, the final NJP report to PERS-834 says you did. Over the phone, the JAG stated that your appeal means you were not guilty. You readily accepted your fault, and feel this is unjust. You claim that the set aside response contained



errors; specifically, you did not approve the executive officer's voucher, and your punishment was not on par with others because you were not an O-5 or E-9 like the others.

The Board noted the Navy Recruiting Command (NRC) Office of the Inspector General Report of Investigation into allegations that the Navy Talent Acquisition Group Golden Gate wasted government money for a recent Operational Training Meeting (OTM), monthly production meetings, and the purchase of awards and giveaways. You were the identified Enlisted Processing Officer when the allegation occurred, and there is evidence that you approved unauthorized travel to the OTM in the Defense Travel System (DTS) for personnel not authorized travel. Based on the evidence obtained, the Investigating Officer found that the preponderance of credible evidence indicated that you violated Article 92, Uniform Code of Military Justice (UCMJ).

The Board noted that you received NJP for violating Article 92, UCMJ, for failing to obey the Joint Travel Regulations (JTR) and Department of Defense Instructions by approving travel and expenditures that did not meet the requirements for authorized travel under the JTR. The Commander found you guilty, awarded a Punitive Letter of Reprimand, and forfeiture of \$365.00 for one month. The Board also noted that you acknowledged your Article 31, UCMJ Rights, accepted NJP, acknowledged your right to appeal, and your appeal was denied. Commander, Naval Education and Training Command (NETC) found that the punishment was neither unjust nor disproportionate. Commander, NETC determined that even if another officer's case was dismissed, you remained one of three officers who received identical punishments relating to this case. He also determined that the CDR, NRC carefully considered the matter, properly weighed the facts and circumstances, took into consideration aggravating and mitigating factors, and properly imposed NJP within his lawful discretionary command authority.

The Board determined that the Commander acted within his discretionary authority, and relied upon a preponderance of evidence, including an official investigation, when determining that NJP was warranted. The Board also determined that your NJP was conducted pursuant to the *Manual for Courts-Martial* (2019 ed.). The Board noted your accomplishments, however, the Board found your evidence insufficient to invalidate your NJP. The Board further determined that each case is considered on its merits; therefore, the outcome of another service member's case does not exonerate your misconduct. Moreover, 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. The Board found your evidence insufficient to overcome this presumption. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the NJP from your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You also indicate in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude that you received NJP as reprisal in violation of 10 U.S.C Section 1034. In making this determination, the Board noted that there was no evidence, other than your statement, that your NJP was imposed as a reprisal action.

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.

