



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

█  
Docket No. 6394-23  
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 5 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 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 the 28 July 2022 Performance Review Board (PRB) Report, the 1 August 2022 Letter of Deficiency (LOD), and the 18 November 2022, Administrative Remarks (Page 13) counseling. The Board considered your contention that multiple errors were uncovered in your PRB, as noted in the LOD. You also contend that the Page 13 indicates misconduct and that the positive urinalysis was determined to be inadvertent ingestion by Navy Personnel. You claim that a shift in the Navy Personnel departments removed the ability of your commanding officer (CO) to make the final determination. You also claim that the positive urinalysis was removed from your record and your request is consistent with the determination of inadvertent ingestion.

The Board noted that your urinalysis tested positive for tetrahydrocannabinol (THC). You were informed of the positive urinalysis result and acknowledged your Article 31b, Uniform Code of Military Justice rights. The Board also noted that the Investigating Officer noted that you denied knowing how THC entered your system. You were referred to a PRB and the PRB unanimously found that THC was present in your system during the 29 March 2022 urinalysis. The PRB majority found that you wrongfully used THC and unanimously recommended disciplinary probation. The Board noted, too, that you acknowledged the PRB's findings and indicated that you would not submit a statement.

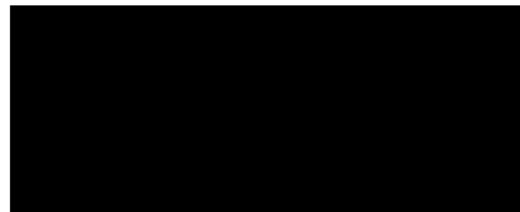
On 28 October 2022, the [REDACTED], [REDACTED] reviewed the details of your case and determined that no further action was required. The [REDACTED] directed your CO to issue a counseling/warning entry. The Board noted that you were issued a Page 13 pursuant to the [REDACTED] directive due to testing positive for THC and as notification that you were being retained in the Navy despite the mandatory separation processing for misconduct for positive urinalysis test. Your CO included a statement noting that your positive urinalysis for THC was determined to be inadvertent ingestion based on [REDACTED], [REDACTED] that allows hemp derived products to contain up to .3 percent of THC9. The Board determined that the contested Page 13 was written and issued in accordance with MILPERMAN 1070-320 and 1910-202.

The Board determined that your CO properly issued your Page 13, which accurately reflects your retention in the Navy and the CO's determination that the THC in your system was the result of inadvertent ingestion. Thus, the Board concluded that remove of the contested Page 13 is not warranted. Additionally, after a thorough review of your official record, the Board found no evidence of the 28 July 2022 PRB Report or 1 August 2022 LOD in your official military personnel file. Based on the totality of the evidence, 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,

9/29/2023

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