



DEPARTMENT OF THE NAVY

█
Docket No. 8578-23
Ref: Signature Date

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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.

A three-member panel of the Board, sitting in executive session, considered your application on 31 October 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.

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 your 23 November 2020 Administrative Remarks (page 11) entry and associated rebuttal. The Board considered your contention that the court dismissed your case and exonerated you of all alleged wrongdoings and charges. As evidence, you provided documentation from █ dated 27 September 2023, dismissing your case for driving while intoxicated.

The Board noted and concurred with the previous Board's decision that your counseling entry is valid as modified. The Board also noted the court order dismissing your case but found no basis for the dismissal of your criminal charges in the documentation. Further, the Board determined that the outcome of your civil case proceeding does not invalidate the underlying basis for your misconduct documented in the counseling entry or an officer's discretionary authority to issue a counseling entry. As such, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the counseling entry 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,

11/22/2023

