



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. 8658-23
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 11 January 2024. 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, as well as the 30 October 2023 advisory opinion (AO) provided by the Navy Personnel Command (PERS-32). The AO was provided to you on 2 November 2023, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove the original evaluation report for the reporting period 1 October 2020 to 1 October 2021 and replace it with the supplemental evaluation report for the same period. The Board considered that your early promote (EP) supplemental evaluation report was submitted in place of the significant problems (SP) evaluation report after you won your administrative separation (ADSEP) board due to a positive urinalysis. You contend that your performance summary report (PSR) still reflects a SP rating, which is having an effect on your career when you have been cleared of any wrongdoing. You also contend that the SP evaluation is holding back your promotion and causing your rating exam for Chief to be invalidated, which is against your rights as a service member that has been retained with no misconduct after a unanimous ADSEP board. You claim that the ADSEP board returned with a unanimous decision that no misconduct happened and retained you.

The Board however, substantially concurred with the AO that your SP evaluation report is valid as filed, in accordance with the applicable Navy Performance Evaluation System Manual (EVALMAN). In this regard, the Board noted that your SP evaluation report contained a 1.0 performance trait mark

and block 43 comment stating that you “tested positive for drug use during 29 JULY 2021 command urinalysis.” The Board also noted that your ADSEP board unanimous found that the preponderance of evidence did not support a basis for separation. The Board determined that you have conflated the ADSEP board findings and your retention in the Navy with a determination that no misconduct occurred. An ADSEP board is administrative in nature with the fundamental purpose of determining a service member’s suitability to serve on the basis of conduct and the ability to meet and maintain the required standards of performance. The ADSEP board process is an administrative employment process and is not intended as, nor does it function as a method to overturn or invalidate facts that were properly documented. Moreover, the Board found no evidence that your positive urine sample was invalid or in error and you provided none. The Board also determined that supplemental material does not change original information on the PSR or replace the original report in a member’s record; it only supplements the original report. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

1/24/2024

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