



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. 10091-23
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 13 December 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.

The Board carefully considered your request to remove the 14 October 2021 Unit Punishment Book (UPB)/non-judicial punishment (NJP). The Board considered your statement, that while the alleged incident could be portrayed as unprofessional, you take full responsibility, and continued to prove yourself three years after the alleged incident. You contend that the charges against you were unlawful and unjust. You claim that according to the Navy Regulations (NAVREGS), paragraph 1165 sub-paragraph 2, for the alleged behavior to be defined as fraternization: 1. Officer to enlisted; the alleged incident involved enlisted personnel only. 2. Alleged personal relationship, which involves any or all of the following:

- (a). A senior's objectivity; however, you were not the alleged junior Marines' senior.
- (b). Result in actual or apparent preferential treatment; however, you were not professionally in a place to treat the Marine with preference or malice and the junior Marine was not your Marine, nor in your section.
- (c). undermine authority of a senior; however, you were not the alleged junior Marines' senior.

(d). Compromise the chain of command; however, you were not in the alleged junior Marine's chain of command.

The Board noted that you received NJP for violating Article 92, Uniform Code of Military Justice (UCMJ) by wrongfully attempting to engage in a personal relationship with a junior Marine, calling into question your objectivity. You acknowledged your Article 31, UCMJ Rights, accepted NJP, certified that you were given the opportunity to consult with a military lawyer, acknowledged your right to appeal, and you elected not to appeal your commanding officer's (CO's) finding of guilt at NJP.

The Board also noted that NAVREGS paragraph 1165 also prohibits relationships between enlisted members that are unduly familiar and that do not respect differences in grade or rank. The Board determined that the examples of circumstances indicated in the NAVREGS is only a limited list of examples. The Board found no error in your CO's finding that your objectivity was called into question. Moreover, your CO was best situated to weigh the facts and circumstances of your case, and your CO acted within his discretionary authority, when conducting your NJP pursuant to the *Manual for Courts-Martial* (2019 ed.). The Board also 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. 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,

12/17/2023

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Deputy Director

Signed by: █