



**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. 10277-23  
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 5 March 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 8 December 2023 Advisory Opinion (AO) provided by Navy Personnel Command (PERS-32), the 16 January 2024 AO provided by Navy Personnel Command (PERS-312), and your response to the AOs.

The Board carefully considered your request to remove your Evaluation Report & Counseling Record (Eval) for the reporting period 16 September 2021 to 15 September 2022 or, in the alternative, to change your promotion recommendation to Early Promote. The Board also considered your request to upgrade your Navy and Marine Corps Commendation Medal (NMCM) to a Meritorious Service Medal (MSM). The Board considered your contention that you were discriminated against based upon your diagnosis of Major Depression Disorder (MDD). You further assert that you developed an alcohol dependence to deal with your stressors and during your last year of service, your relationship with the command deteriorated because you used leave days to focus on your recovery from MDD and substance abuse disorder. You also contend that at the time of your retirement, it was common practice throughout the command to issue MSM's to Chief Petty Officers.

In regards to your removal of the Eval for the reporting period ending on 15 September 2022, the Board considered the PERS-32 AO and, pursuant to BUPERSINST 1610.10F, determined that the fitness report is valid as written. The Board concluded that your Reporting Senior justified your decline in performance and trait marking in block 43. Moreover, the Board noted that in your personal statement, you admitted to being absent for a large amount of time during the reporting period. Thus, the Board concluded that the RS rated you according to his observations based upon your performance for the reporting period.

In regards to your request to upgrade your NMCM to an MSM, the Board substantially concurred with the AO provided by PERS-312. In this regard, the AO noted pursuant to SECNAVM-1650.1, reconsideration for an upgrade to a personal decoration requires presentation of new and relevant evidence, which was not available at the time the original award was processed, as well as endorsement via the original chain of command at the time of the distinguishing act or period of service. The Board found your evidence without merit. In regards to your contention that it was common practice within your command to issue MSM's to chief petty officers, the Board also determined this contention is without merit. The Board weighs each case on its own merit and the purported status of another sailor's record has no bearing on your case. Furthermore, the Board noted pursuant to SECNAV-M-1650-1H, the Department of the Navy does not have a retirement award, nor is it appropriate to recommend an award for the entire career of a servicemember. Moreover, if an individual is recommended for an award upon retirement, it shall only recognize service at the last duty station.

Finally, regarding your contention that you were discriminated against by your command based upon your diagnosis of MDD, the Board determined you provided insufficient evidence, other than your personal statement in support of this claim. 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. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal or modification of the fitness report in question or the upgrading of your NMCM. 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,

3/20/2024

