



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. 891-24
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 22 February 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.

The Board carefully considered your request to remove the Unit Punishment Book (UPB) (NAVMC 10132) dated 14 March 2013 and the corresponding Administrative Remarks (Page 11) counseling entry of the same date. You contend a Marine must be advised of his rights in accordance with Article 31 of the Uniform Code of Military Justice and section 0104 of the Manual of the Judge Advocate and, after being advised, must sign and date block 2 of the UPB. Specifically, you contend it is apparent the proper procedures were not followed and you were “potentially not efficiently advised of [your] rights” prior to the imposition of nonjudicial punishment (NJP) on 14 March 2013 as evidenced by the lack of a date in block 2 of the UPB. Rather, you contend the lack of a date does not substantiate that the advisement occurred before the NJP as required.

The Board noted the lack of a date on the UPB entry of 14 March 2013 but determined the error was a harmless administrative error. The Board also noted you declined three opportunities to question the imposition of NJP by choosing not to appeal the NJP and by declining to submit written rebuttals to the associated Page 11 entries of 14 March 2013. Thus the Board concluded

this was further evidence the NJP was appropriately and correctly administered, especially when the Board takes into account your subsequent legal duties at various later billets which would surely have caused you to question the NJP at an earlier date, if you had indeed not being advised of your rights. As a result, the Board concluded there is insufficient evidence of an error or injustice warranting removal of the UPB and counseling entries 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,

3/11/2024

