



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

[REDACTED]  
Docket No: 4266-16  
SEP 05 2017

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 U.S.C. §1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 May 2016. 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, your naval record and applicable statutes, regulations and policies. An advisory opinion provided by Navy Personnel Command dated 5 January 2017, was previously provided to you.

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 issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 24 April 2006. On 13 September 2007, you received nonjudicial punishment (NJP). On 25 January 2010, you received an Administrative Remarks (Page 13) counseling for your third offense of sleeping in a staff lounge. On 6 October 2015, you received a record of counseling for substandard performance during visit, board, search and seizure training. You were recommended to be removed from "F" company and for your removal of your 8403 Navy Enlisted Classification (NEC). On 3 November 2015, the Commanding Officer, [REDACTED] submitted a request to have your 8403 NEC removed for loss of confidence. On 25 November 2015, the Enlisted Technical Leader for NEC's 8403 and 8427 concurred with the command's request. On 16 December 2015, the Bureau of Medicine Independent Corpsman Program Manager and Program Director concurred with the command's request. On 17 December 2015, your NEC of 8403 was rescinded by Navy Personnel Command (NPC). On 15 January 2016, a Command

Investigation was completed into the stolen equipment which had been in your possession. The investigating officer recommended you receive NJP. On 5 April 2016, the Criminal Investigation Division started an investigation into your actions of forging electronic documents regarding enlisting into the Navy Reserve. On 27 June 2016, you were notified that you were being referred to a special court-martial. After being afforded all of your procedural rights, you agreed to accept NJP thereby avoiding criminal prosecution, and waived your right to an administrative discharge board. On 28 June 2016, you received NJP for making a false official statement and the loss of government property. On 1 July 2016, you submitted a request for redress for all issues that led to your NJP. On 8 July 2016, authority was granted for your discharge. On 11 July 2016, you submitted an Article 138 of the Uniformed Code of Military Justice (UCMJ); Complaint of Wrongs, to the Commanding General, U.S. Marine Corps Forces, Special Operations Command (MARSOC). On 13 July 2016, your commanding officer addressed your request for redress. On 15 July 2016, the MARSOC answered your complaint of wrongs finding that the complaint was without merit. You were discharged on 22 July 2016.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. You requested to have corrections made to your Certificate of Release or Discharge from Active Duty (DD Form 214); specifically your discharge upgraded to Honorable, remove the "misconduct" narrative, remove the "HKQ" separation code, remove the "RE-4" reentry code and replace with RE-1; the NJP removed; your administrative separation removed; reinstatement of your NEC's 8403, 8427, and 5345; adjust all affected evaluations; and back pay and allowances. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as the removal of your NEC that did not comport with current guidelines, your CO's abuse of his discretion, errors by the Staff Judge Advocate and investigating officer, and the failure of the command to follow Navy regulations. In this connection, the Board agreed with the contents of the advisory opinion. Additionally, the Board disagrees with your assertions that the removal of your NEC's did not follow regulations. Your record shows a long history of counseling's but most importantly, that your CO's loss of confidence in your abilities, and recommendation of the removal of your NEC's because of documented substandard performance. The Board noted that you filed an Article 138 complaint that was found to be without merit. The Board also noted that you admitted misconduct, accepted NJP, and waived administrative separation proceedings. The Board did not agree with any of your assignments of error. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence. New evidence is evidence not previously considered by the Board prior to making its decision in your case. 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,



Executive Director