



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

[REDACTED]
Docket No: 7294-16

SEP 27 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 June 2017. 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.

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

On 20 April 2015, you received nonjudicial punishment (NJP) for failure to obey an order or regulation and conduct unbecoming an officer and gentleman. Prior to the imposition of NJP, you were advised of your right to refuse NJP. You elected to accept NJP, pled guilty to one charge, and did not appeal the punitive letter of reprimand (PLOR) that was subsequently awarded. On 20 April 2015, your Commanding Officer (CO) submitted a Report of Misconduct and recommended your detachment for cause (DFC), that you be required to show cause for retention in naval service at a Board of Inquiry (BOI), and that your promotion be delayed. Additionally, your access to classified material was suspended and a recommendation for security clearance revocation was filed. Thus, your inability to access classified material prevented you from completing assigned duties. The BOI determined that, the preponderance of the evidence supported the findings of your failure to obey an order or regulation, but did not support a finding of your conduct unbecoming an officer or substandard performance. The BOI further determined that separation for cause was not warranted. On 1 September 2015, the

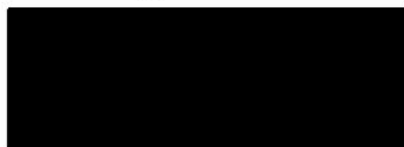


request for your DFC due to misconduct was approved. On 1 December 2015, you were notified that your Aviation Career Continuation Pay (ACCP) contract was terminated as a direct result of your DFC, and your obligated service period from 1 January 2014 to 31 December 2018 was terminated, requiring the unearned portion of the contract to be repaid.

The Board, in its review of your record and application with supporting documentation, carefully considered your desire to (1) remove from your official military personnel file, all adverse personnel action taken against you as a result of your DFC, (2) fully reinstate your ACCP with back payments upon reinstatement, and (3) ensure that your next assignment is consistent with the expungement of the DFC and completion of your ACCP contractual obligations. The Board considered your argument that your command failed to provide the Navy Personnel Command (PERS-834) or superior commands with outcome determinative information regarding your DFC, that your NJP was grounded in erroneous and misleading information, which caused your DFC and loss of ACCP, and that a Board of Inquiry (BOI) found that you did not engage in conduct unbecoming. The Board noted that, although the BOI may have come to a conclusion that you did not engage in conduct unbecoming, the BOI's conclusion does not invalidate the NJP official's conclusion on the same evidence. Further, the Board noted that the BOI found that you committed misconduct by failing to obey an order or regulation, thus confirming the misconduct that was one of the bases for your NJP and DFC. Finally, the Board noted that, although your security clearance eligibility was restored, your misconduct resulting in the CO's loss of trust and confidence in you was sufficient to justify your DFC and subsequent ACCP termination. The Board concluded your contentions were not sufficient to warrant relief in your case, and that you did not provide sufficient evidence of an error or injustice to support your request. Accordingly, your application has been denied.

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



Executive Director