



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

[REDACTED]
Docket No: 6673-17

DEC 28 2017



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 11 October 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.

On 1 November 2013, you received nonjudicial punishment (NJP) for failure to obey a lawful order and drunk and disorderly. You were also issued an Administrative Remarks (Page 11) Counseling entry dated 1 November 2013, which stated in part that you were being counseled concerning your misconduct, specifically, your NJP for Violation of the Uniform Code of Military Justice (VUCMJ) Article 92 (Failure to obey orders and regulations) and Article 134 (Disorderly conduct and drunkenness).

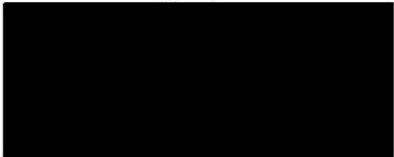
On 14 March 2016, your Commanding Officer of Marine Unmanned Aerial Vehicle Squadron 1 requested that your NJP of 1 November 2013 be set aside and that all rights, privileges, and property affected by virtue of the NJP's punishment be restored. On 12 July 2016, your Commanding Officer was notified by Head, Records Research and Reconstruction that although the request meets the authorized requirement for imposing the set aside of your NJP, but has been three years after the NJP was held, and outside of the four month parameter per naval directives.

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. The Board carefully weighed all potentially mitigating factors, such as your desire to have removed your fitness report covering the period of 14 August 2013 to 1 January 2013, and all

references of your NJP of 1 November 2013 (The UPB and Page 11 counseling entry) from your Official Military Personnel File (OMPF). The Board also considered your contention that you received the adverse fitness report for an offense committed in the civilian community; your NJP was held prior to the civilian adjudication. After the NJP concluded, the civilian charges were reduced to such a degree that your NJP was unjustifiable. The Board noted that the Commandant of the Marine Corps directed that your naval record be corrected by removing the contested fitness report. The Board concluded these factors were not sufficient to warrant the removal of your NJP and subsequent Page 11 counseling entry. In this regard, the Board concluded that the Commanding Officer's decision to impose NJP was appropriate, administratively and procedurally correct as written and filed. The Board also determined that the Page 11 counseling entry was appropriate, administratively and procedurally correct as written and filed. 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