



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

██████████
Docket No: 2684-19
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER ██████████
XXX-XX-██████, USNR

Ref: (a) Title 10, United States Code, Section 1552
(b) SECNAVINST 5420.193

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214 of 13 June 2011
(3) DD Form 214 of 30 September 2012
(4) Action Memo by ██████████ of 22 June 2018
(5) Officer Appointment Acceptance and Oath of Office of 1 October 2015
(6) Central Intelligence Agency ltr of 30 November 2015
(7) Separation Order of 15 November 2018

1. Pursuant to the provisions of reference (a), Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting to be reinstatement, consideration for continued service in the United States Navy Reserve, and be added back to the FY18 Lieutenant Junior Grade (LTJG) list.

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's application on 28 May 2020. The names and votes of the members of the panel will be furnished upon request. Petitioner's 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 Petitioner's application, together with all material submitted in support thereof, relevant portions of her naval record, and the enclosures, as well as applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. Petitioner enlisted in the Navy on 28 July 2004, and served on active duty until 13 June 2011, when she was honorably discharged at the completion of her required active service and released to the Naval Reserves. Petitioner was activated from 22 February 2012 until 30

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September 2012, when she was honorably released at the completion of her required active service. See enclosures (2) and (3)

c. In January 2013, Petitioner underwent a background check and security interview as part of a contractor employment process. In October 2013, she received a statement of reasons concerning denial of access to classified information. See enclosures (4) and (6)

d. On 25 February 2015, Petitioner was selected by the FY16 Naval Reserve (NR) Limited Duty Officer (LDO) in-service procurement board and was commissioned as an Ensign on 1 October 2015. See enclosure (5)

e. On 30 November 2015, the Central Intelligence Agency (CIA) notified Petitioner that her access to classified information had again been denied based on her responses during the 2013 background check and security interviews. See enclosure (6)

f. On 19 January 2016, the Department of Defense Central Adjudication Facility (DODCAF) filed a security clearance eligibility status of "revoked." Subsequently, on 14 November 2017, DODCAF adjudicated and reinstated Petitioner's TS-SCI eligibility. See enclosure (4)

g. The FY18 NR Lieutenant Junior Grade (LTJG) Appointment List process identified Petitioner for promotion with a projected date of rank of 1 October 2017. Her promotion was withheld pending review of adverse information. On 20 December 2017, Commander, Navy Personnel Command (CNPC), determined Petitioner was qualified for promotion. Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) recommended disapproval of her promotion to LTJG. See enclosure (4)

h. On 22 August 2018, the SECNAV disapproved Petitioner's promotion and directed her discharge in accordance with SECNAVINST 1412.6L. On 15 November 2018, the SECNAV, acting for the President, discharged Petitioner from the U.S. Navy Reserve. See enclosures (4) and (7)

CONCLUSION:

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 reviewed Petitioner's application, weighed all potentially mitigating factors, and considered her contentions her name was unjustly removed from the promotion list and she was unjustly discharged. Specifically, the Board considered Petitioner's contention that her TS-SCI clearance was wrongly and improperly revoked by a former contracting company. Petitioner states she was contacted by a contracting agency to support the CIA and was required to take a full scope polygraph. Ten months after the polygraph, the CIA provided her with a non-detailed Statement of Reasons (SOR) that listed approximately seven reasons for denial. Petitioner contends the CIA SOR had many inaccuracies and that "nearly the whole list of reasons for denial had some form of misstatement" which she attributed to "human error" considering the length of time that had passed since the polygraph. Petitioner further contends

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she responded to the SOR with a personal statement and letter of correction with supporting documents, information that was also provided to the Navy.

The Board considered each of the explanations Petitioner provided for the incidents addressed in the CIA SOR, which she also contends were misstated in the memo to SECNAV. Specifically, the Board considered Petitioner's contention that "I am not a drug dealer" and did not "sell approximately 40-50 Tylox pills." She contends, "I believe I told the polygraph examiner four to five (4 - 5) pills" and that "40 - 50" must be a typographical error and is "unequivocally and with absolute certainty not true." Further, Petitioner explained that she did not sell the pills but instead "gave a few pills away." The Board considered her explanation that she wrote in her "official statement to the CIA that it was approximately twenty or less." Additionally, the Board considered Petitioner's comment that she "made a huge mistake by giving away a few pills to a friend, however, I never tried to cover it up, and I admit that in the exact moment in time, I was thoughtless - however totally innocent!" Further, the Board considered Petitioner's emphatic statement that "This incident was not a sought-out, deliberate, and purposeful drug transaction as miswritten and mischaracterized" in the SOR and SECNAV memo."

The Board also considered Petitioner's contention that she did not "freely admit that I had someone commit a 'violent crime.'" Specifically, the SECNAV memo states she freely admitted that during her time as a reservist she "paid someone to commit a violent crime" on her behalf. Petitioner contends that, when mentioning "the worst things I had possibly done," she reported to the polygraph examiner her "willingness to pay someone to break a former friend's window." Petitioner contends that was not a "violent crime" because "with all due respect, violent crimes are normally associated and characterized for crimes of murder, assault and battery, rape, and other egregious acts and I did no such thing." The Board also considered Petitioner's contention that her past "personal conduct should not be of concern" because she offered to pay for the damaged window even though the former friend never repaid the \$1000 she owed her. Petitioner also contends the incident happened nearly a decade ago and "I and several navy leaders feel enough time has passed to mitigate the concern of me conducting [myself] in such behaviors again." Further, Petitioner contends the "incident was known and not held in prejudice against me previously."

Further, the Board also considered Petitioner's contention the SECNAV memo used "inflammatory language" that was "grossly exaggerated to adversely mischaracterize a poor decision I made nearly a decade ago when I was enlisted, prior to my commissioning, in order to make a powerful and impactful statement." The Board also considered her admission that "the accidents did happen but not as black and white as miswritten in the SECNAV memo." Additionally, the Board considered her repeated remorse for her mistakes and her contention that, since these incidents, "I have shown the Navy who I am personally and professionally," have taken "responsibility for my actions," and have learned from her mistakes which "makes me a better person (personally and professionally) and an even better leader today."

The Board also considered Petitioner's contention that her clearance remained active after the CIA SOR letter in 2013 but was wrongly and improperly revoked in February 2016, for unknown reasons, by a contracting company she had worked with for approximately three to four months. Petitioner further contends that the Navy Inspector General determined the

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revocation was improper, and her clearance was subsequently reinstated in November 2017. But for the improper revocation, Petitioner contends she would still be serving because the removal of her name from the FY18 NR LTJG promotion list was "solely because my clearance was wrongly revoked."

Additionally, the Board considered Petitioner's contention that the two incidents mentioned in the SECNAV memo were "known to the Navy and not held in prejudice against me previously" so she feels "it was unfair and unusual to discharge me nearly a decade later." Further, she contends these two incidents do not speak to her overall skills and abilities to exercise good judgment. Petitioner contends, "I do not have questionable judgment skills, possess bad human morals or bad ethics. . . . I am able to make sound decisions with the Navy's best interest at the front of my mind at all times. . . .[and] unequivocally can perform the duties of a LTJG and beyond."

Lastly, the Board considered Petitioner's contention that her "entire performance record as a prior enlisted personnel and since commissioning in 2015 is nearly immaculate" and shows how she is "an effective and positive leader." The Board also considered the advocacy letters submitted on her behalf and her personal statement and expression of the importance of the Navy's core values in her life.

Having considered each of the contentions discussed above, the Board determined there was insufficient evidence of a material error or injustice warranting Petitioner's requested relief.

The Board determined it was not error or unjust for the SECNAV to consider information that occurred prior to Petitioner's commissioning or more than ten years ago. If such information comes to the Navy's attention, even from a revoked clearance which she contends was wrongfully revoked, and it reflects a serious and/or enduring lack of judgment, it can be brought to SECNAV's attention and considered by him when making a determination on whether to approve/disapprove an officer's promotion. The Board further determined, after considering Petitioner's explanations of the incidents discussed in the memo to SECNAV, that there is insufficient evidence of error or injustice to overcome the presumption of regularity in SECNAV's determination to disapprove her promotion and direct discharge. The Board noted the memo to SECNAV included discussion of Petitioner's Commanding Officer's favorable endorsement as well as Petitioner's statement expressing remorse and her strong desire to continue to serve, lead and mentor, and determined there was insufficient evidence to support her contention that the incidents described in the CIA SOR were improperly considered or that Petitioner's subsequent discharge was in error or unjust.

RECOMMENDATION:

That Petitioner's request be denied.

That a copy of this report of proceedings be filed in Petitioner's naval record.

That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 28 February 2019.

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- 4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.
- 5. The foregoing action of the Board is submitted for your review and action.

7/23/2020

[REDACTED]

Executive Director

Secretary of the Navy Decision:

Reviewed and Approved Petitioner Request (Grant Relief)

Reviewed and Approved Board Recommendation (Deny Relief)

JUN 20 2021

[REDACTED]

Acting