



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

█
Docket No. 111-24
4504-22
Ref: Signature Date

█
█
█

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.

A three-member panel of the Board, sitting in executive session, considered your application on 16 May 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 determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully reconsidered your request¹ to set aside the nonjudicial punishment (NJP) issued 18 May 2001, reinstate your rate/rank to IT1, and change your reentry code RE-1. Specifically, in December 2022, this Board substantially concurred with the Advisory Opinion provided by the Office of Legal Counsel (BUPERS-00J) and determined the Commanding Officer's (CO's) action were correct and proper. Further, the previous Board concluded your contention the NJP was racially biased or motivated lacked merit because "[y]ou provided no evidence, other than your subjective statement, that the CO imposed a harsher punishment because you are African American."

¹ The Board noted you did not specify the relief requested in block 13 of your current DD Form 149. However, based on the denial of your requested relief in NR20220004504, the Board assumed your current submission was intended to seek the same relief.

In your recent application, you again contend you were falsely accused of sexual harassment with no factual evidence and the “findings do not substantiate the punishment.” You also contend the preliminary investigations were conducted differently and were “biased on gender.” A review of the supporting documentation submitted with your current application revealed documentation that has previously been provided to the Board or is resident in your official military personnel file. However, the Board noted your submission of character statements from the May 2021 timeframe, which were obviously not written specifically for your current submission, but nonetheless have not previously been reviewed by this Board. The Board carefully reviewed your reiterated contentions, the newly submitted evidence, and the previously submitted evidence.

The Board, after careful consideration of the new evidence, again determined your CO’s actions were correct and proper. The Board noted the numerous statements that documented various individual observations of your character. However, the Board determined these statements still provided insufficient evidence of an error or injustice in your CO’s decision to administer NJP, reducing you in rank to IT2/E-5 and awarding forfeitures of pay and restriction/extra duty. After review and reconsideration of your contentions and the entirety of evidence provided by you, the Board again concluded sufficient evidence existed to impose NJP. Based on the available evidence, the Board again concluded there was insufficient evidence of an error or injustice to warrant granting your requested 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,

6/3/2024

