

## **DEPARTMENT OF THE NAVY**

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

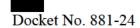
> Docket No. 881-24 Ref: Signature Date

Dear

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 July 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. In addition, the Board considered the advisory opinion contained in Enlisted Force Plans and Policy (OPNAV N132C) memorandum 1430 of 10 April 2024, which was previously provided to you for comment.

You requested to withdraw your advancement to Interior Communications Electrician Third Class (IC3)/E-4 due to disciplinary action taken on 16 November 2022. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that in accordance Bureau of Naval Personnel Instruction 1430.16G, recommendation/advancement authority cannot be withheld or withdrawn on or after the effective date of advancement. Failure to comply with the required actions prior to the advancement date will result in the member retaining scheduled advancement. Commanding Officers/Officers-in-Charge (COs/OICs) may withdraw a recommendation for advancement at any time, prior to the advancement effective date, if the member is determined to no longer qualify for advancement. To withdraw a recommendation for advancement, COs/OICs must complete specific action that includes issuing a "Significant Problems" evaluation that must be signed by the member; email notification to Naval Education Training and Professional Development Center (NETPDC) (N321) and Navy Personnel Command (NPC) (PERS-803) of



the withdrawal; and completion of NAVPERS 1070/613, Administrative Remarks (Page 13) entry advising the member of the withdrawal.

A review of your record reflects, you participated in the March 2022 (Cycle 255) Navy Wide Advancement Examination and was selected to IC3/E-4 with an effective of 16 December 2022. Prior to your effective date of advancement, you were found guilty at non-judicial punishment (NJP) on 16 November 2022 for violation of Article 86 (Failure to go to appointed place of duty) and Article 92 (Failure to obey a lawful order). You were awarded 40 days restriction and extra duty, reduction in rate (RIR) to E-2, and half months pay for two months.

issued you a Special evaluation for period of report from 16 July 2022 to 16
November 2022 on the occasion of your RIR with Significant Problems promotion recommendation and not recommended for retention. The evaluation was signed by your CO, Senior Rater and yourself on 21 November 2022. However, the Board could not find, nor did you provide copies of the notification to NETPDC (N321) and NPC (PERS-803) of your advancement being withdrawn or a timely Page 13 withdrawing your advancement. On 13 December 2022, you were issued a Page 13 for the COs NJP that occurred on 16 November 2022. On 16 December 2022, you advanced to IC3/E-4 as a result of the aforementioned action not being completed in a timely manner. Thereafter, you were found guilty at NJP on 28 March 2024 for violation of Article 86 (Failure to go to appointed place of duty) and Article 87 (Missing movement). You were awarded 45 days restriction and extra duty, and RIR to E-2; your electronic service record reflects RIR to E-3. On 21 July 2023, issued you a Page 13 indicating, "16 Dec 2022: Advancement to IC3 withdrawn this date as a result of disciplinary action taken on 27 October 2022." The Board noted 27 October 2022 was the date of your offenses; disciplinary action (NJP) was taken on 16 November 2022.

In this connection, the Board substantially concurred with the comments contained in the advisory opinion, and determined a change to your record is not warranted.

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.

