

DEPARTMENT OF THE NAVY

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

> Docket No. 2837-24 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 23 April 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 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.

You previously applied to this Board for relief and were denied on 5 September 2023. The facts of your case remain substantially unchanged.

The Board carefully reconsidered your request to remove the 18 November 2022 Administrative Remarks (Page 13) entry. The Board considered your contention that the word "misconduct" is a mischaracterization of your inadvertent ingestion case. You also contend there is no misconduct that justifies the entry in your record. Without a decision in favor for the removal of the misconduct characterization, you claim that you will be unable to obtain an opportunity to be Naval Submarine Officer.

The Board, however, substantially concurred with the previous Board's decision that your Page 13 is valid. In this regard, the Board noted that you test positive for tetrahydrocannabinol (THC), you were referred to a Performance Review Board that determined you wrongfully used

THC, you were also processed for administrative separation for misconduct, and although the administrative separation board found that the preponderance of evidence supported a basis for separation, they recommended your retention. The Board also noted that after a review of all the evidence related to your case and the Chief of Naval Personnel Command (CNPC) still directed the issuance of your Page 13 even after consideration of your Commanding Officer's opinion that the positive urine test was the result of innocent ingestion. CNPC specifically directed inclusion of the statement, "IAW COMNAVPERSCOM Millington , I am being retained in the naval service despite my misconduct." The Board determined that misconduct is the only reason for administrative separation processing and thus, when read in context, the Page 13 entry is warranted and contains no procedural errors. Therefore, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit 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.

