



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

█
Docket No: 3516-24
1882-22
3043-20
Ref: Signature Date

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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 31 May 2024. The names and votes of the panel members 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 the 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, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo). Additionally, the Board considered the 21 May 2020 advisory opinion (AO) furnished by Headquarters, Marine Corps (JPL) and your previous rebuttal from your original request for relief, Docket No. 3043-20.

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 noted your previous requests, Docket Nos. 3043-20 and 1882-22, requested the same relief, with the exception that, in your current submission, you now request removal of "all derogatory information to include NJP and negative evaluations" which is a broader request that does not specify the dates of the nonjudicial punishment (NJP), counseling, or evaluations¹. The Board

¹ A review of your official military personnel file (OMPF) reveals you have two NJPs and six derogatory Administrative Remarks (Page 11) entries. Additionally, in your previous requests for relief, you have not identified or provided a copy of a performance evaluation you considered "negative" so the Board was unable to determine which specific evaluations you wanted considered for removal. However, based on its decision to deny your request to remove any derogatory material and the NJPs,

also noted the only new document² in the current submission is the undated and unsigned³ “Personal Affidavit of Former Military Member” which appears, from reading the affidavit, to be your personal affidavit.

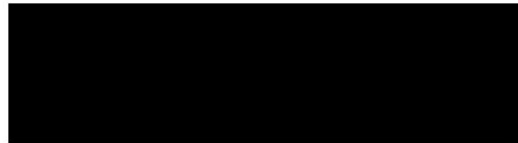
Due to the new personal affidavit, the Board considered your request to remove “all derogatory information to include NJP and negative evaluations.” However, the Board determined your statement did not provide new evidence that overcame the previous Boards’ decisions. This Board again substantially concurred with the AO and reiterated its agreement with the original Board’s comments. Based on the available evidence, the Board again concluded there was insufficient evidence of an error or injustice to warrant granting your requested relief in this case and the specific relief requested in your previous cases⁴. Accordingly, given the totality of the circumstances, the Board determined 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

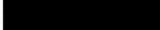
6/6/2024



Deputy Director

Signed by: 

the Board presumed the derogatory material resident in your OMPF is what made the evaluations “negative” and did not consider your request to remove “negative evaluations.”

² On your DD 149, block 13, you note “[t]he applicant has new evidence and argument to present.” However, in block 19, you only list  as documentary evidence provided. Therefore, the Board was unable to verify it was in receipt of all the intended “new evidence.”

³ The affidavit just says, “Review Board” and “Docket No.” at the top but the Board assumed, since submitted by you, that the personal affidavit is your statement submitted for consideration.

⁴ In Docket No. 1882-22, you requested to remove the NJP received on 10 October 2004, reinstatement to E-5, backpay, changing your narrative reason for separation to “secretarial authority,” and promotion. In Docket No. 3043-20, you requested removal of the NJP, reinstatement to E-5, backpay, upgrade to your discharge, change of reentry code to RE-1, and change narrative reason to “for convenience of the Government.”