



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

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Docket No. 6797-24
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 25 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.

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 considered your request to remove the Final Civil Action Report (FCAR) and Status in the U.S. Navy letter which are “the Field Code 17 Adverse & Punitive Info – Officer Documents related to an incident that occurred on 17 August 2021.” You contend the “reported incident” did not result in the imposition of nonjudicial punishment and your chain of command “made note that this action did not warrant promotion delay, removal or a requirement to show cause for retention” because the incident was “truly an accidental oversight.” Additionally, you contend the incident should not have been immediately reported to Navy Personnel Command (NPC) before the adjudication of any civil actions and that reporting to NPC “did not align with MILPERSMAN 1611-010” which outlines events requiring notification to NPC (PERS 834).

The Board, however, in its review of MILPERSMAN 1611-010, disagreed with your interpretation of the requirements. The Board noted a decision to notify PERS-834 is required to be made immediately regarding “all incidents relating to adverse or reportable officer misconduct or substandard performance.” Further, “any arrests (civil or military)” are listed as examples of events requiring notification. A review of the FCAR submitted by Commanding Officer (CO), Navy Medicine Readiness and Training Command, Portsmouth, on 1 December 2021 lists enclosures that clearly indicate the U.S. District Court adjudicated a charge against you. Further, the FCAR notes you were “issued a U.S. District Court Violation Notice and released to [your] chain of command.” Additionally, the Board noted the FCAR was the command’s “update” on the initial notification and is required by MILPERSMAN 1611-010. Lastly, the Board noted the Status in the U.S. Navy letter, in addition to informing you of the Show Cause Authority’s determination, states the FCAR “will be filed into your official record” and provides an opportunity for you to “submit a statement in response to adverse material inserted into your record.” The Board determined the CO took authorized and required action when he notified PERS-834 and submitted the FCAR. As a result, the Board concluded there is insufficient evidence of an error or injustice warranting removal of the documents in question from your record. 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.

Sincerely,

8/7/2024

