



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

██████████  
Docket No. 8126-24  
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 20 August 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

The Board carefully considered your request to remove any reference to a Pattern of Misconduct and Commission of a Serious Offense for violating Articles 92 and 107 of the Uniform Code of Military Justice (UCMJ). The Board also considered your request to be reinstated into the United States Navy with all back pay and allowances. The Board considered your contentions that the accusations against you were false and that you provided the Restriction Barracks Petty Officer First Class' contact information to the investigating officer so that he or she could clear up any misunderstanding regarding what was allowed to be kept in the locker, but the investigating officer refused to contact your witness.

The Board noted you enlisted in the United States Navy and entered active duty on 18 April 2023. On 26 October 2023, the commanding officer (CO) imposed nonjudicial punishment (NJP) for violations of the UCMJ, Article 86 for unauthorized absence and Article 92, failure to obey a lawful order. You were advised of your procedural rights and agreed to accept NJP. As punishment, you were placed on 30 days restriction, received 30 days extra punitive duties, and you received forfeiture of \$958.00 pay for two months. The Board noted that you did not appeal your CO's finding of guilt at NJP.

The same day, you received a Page 13 counseling entry notifying you that you were being retained in naval service. The entry provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. On 29 January 2024, you were notified that the CO recommended you be processed for administrative separation (ADSEP). By memorandum, on 4 March 2024, pursuant to MILPERSMAN 1910-140, the Commander, Naval Education and Training Command notified your CO that your discharge was approved with the narrative reason of separation as a pattern of misconduct. On 25 March 2024, you were so discharged with an uncharacterized entry level separation and assigned a reentry code of RE-4 (not recommended for reenlistment).

In regards to your contention that the accusations against you were false, the Board concluded that other than your personal statement, you provided insufficient evidence to support your claims. The Board also noted pursuant with MILPERSMAN 1910-140, service members may be separated for a pattern of misconduct when during the current enlistment they have: (1) two or more NJPs, courts-martial, or civil convictions (or combination thereof); (2) three or more unauthorized absences...further, a member must have violated a NAVPERS 1070/613 warning or other form of counseling prior to processing.

Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. The Board found the CO's determination that you committed misconduct to be reasonable. The Board thus concluded based upon the totality of the evidence, your CO acted within his discretionary authority when determining that ADSEP was warranted and that you were properly separated in accordance with relevant policy.

Finally, upon review of your record, the Board did not find any reference to a violation of Article 107, UCMJ in your official military personnel file.

Thus, 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.

Sincerely,

9/24/2024

