



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

[REDACTED]  
Docket No. 8146-24  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,  
XXX-XX [REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) NAVADMIN 124/23  
(c) BUPERSINST 1430.16G  
(d) BUPERSINST 1610.10F

Encl: (1) DD Form 149 w/attachments  
(2) NSIPS, Court Memorandum (NJP) of 7 Jul 23  
(3) NAVPERS 1070/613 (Page 13) Administrative Remarks of 6 Sept 23  
(4) Petitioner Rebuttal of 8 Sept 23  
(5) Evaluation Report & Counseling Record for the reporting period 16 Sept 23 to 21 Sept 23  
(6) Petitioner Rebuttal to Eval of 23 Jul 24  
(7) NAVPERS 1070/613 (Page 13) Administrative Remarks of 25 Sept 23  
(8) Petitioner Rebuttal of 3 Oct 23  
(9) Commander, ESG-3 Response to Petitioner's Appeal of NJP 5812 SER N00J/293 of 14 Dec 23  
(10) Statement of Trial Results, Special Court Martial, [REDACTED]  
(11) Military Law Attorney on behalf of Petitioner Request for Redress of [REDACTED]  
(12) CO, [REDACTED] ltr, Subj: Response to Redress 5800 Ser LEGAL of [REDACTED]  
(13) CO, [REDACTED] ltr 1616 LEGAL of 15 Jul 24  
(14) Petitioner ltr, Subj: Complaint of Wrongs Under Article 138, UCMJ of 25 Jul 24  
(15) NPC Memo 1610 PERS-32 of 21 Aug 24  
(16) NPC Memo 1430 Ser 80/0608 of 27 Dec 24

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her naval record be corrected by removing the Evaluation Report & Counseling Record (Eval) for the reporting period 16 September 2023 to 21 September 2023 and the reinstatement of her promotion status to E-8; backdated to 18 September 2023.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 18 February 2025 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

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3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. On 27 March 2023, the Fiscal Year (FY) 2024 Active Duty (AD) Senior Chief Advancement Selection Board (ASB) convened. On 24 May 2023, pursuant to reference (b) Petitioner was notified of her selection to Senior Chief Petty Officer (SCPO/E-8) by the FY 2024 Senior Chief ASB.

c. On 7 July 2023, Petitioner received Non-Judicial Punishment (NJP) for a violation of Article 112a, wrongful use, possession, etc., of a controlled substance of the Uniform Code of Military Justice (UCMJ). As punishment, she received an oral reprimand and forfeiture of one half months pay (\$3056) for two months. Enclosure (2).

d. On 6 September 2023, the Petitioner received a Page 13, Administrative Remarks counseling entry notifying her that her advancement to E8 was being withheld due to misconduct. Petitioner refused to sign. On 8 September 2023, Petitioner provided a rebuttal in which she denied committing the alleged misconduct and asserted that she did not wrongfully and knowingly use a controlled substance. Enclosures (3) and (4).

e. Petitioner received a Special/Regular Eval for the reporting period 16 September 2023 to 21 September 2023, while serving as the Lead Chief Petty Officer (LCPO) [REDACTED]. Her promotion status was marked as "Selected," and she was rated "Below Standards" in performance traits for Deckplate Leadership, Professionalism, Character, and Sense of Heritage. Block 41 comments indicate that the Eval was submitted following her NJP. The Eval further indicates the NJP concluded on 21 September 2023 and that she was not recommended for advancement or retention. Petitioner did not sign the Eval. On 23 July 2024, the Petitioner submitted a rebuttal for the contested Eval. Enclosures (5) and (6).

f. On 25 September 2023, Petitioner received a second Page 13 counseling entry notifying her that her advancement to E8 was being withheld due to misconduct. Petitioner did not sign the counseling entry. On 3 October 2023, the Petitioner submitted a rebuttal to the Page 13 counseling, emphasizing her denial of the alleged misconduct and stating that she did not wrongfully and knowingly use a controlled substance. She further asserted that expert opinions from both drug lab experts supported her conclusion. Additionally, she noted that she appealed her NJP and the command refused to provide her with their endorsement. When she finally received it on 15 September 2023, she claimed that new matters were raised for which she was entitled to submit a rebuttal and she was denied that right before action was taken on the appeal. Enclosures (7) and (8).

g. On 14 December 2023, the Commander, [REDACTED] set aside the Commanding Officer (CO) for the [REDACTED] NJP due to the exclusion of three enclosures, determining a procedural error occurred on behalf of the government. He further authorized the CO of [REDACTED] to conduct a new hearing for the original offenses. Enclosure (9).

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h. On 11 July 2024, a Statement of Trial Results for Special Court Martial (SPCM) indicated Petitioner was found not guilty of two specifications of an Uniform Code of Military Justice, Article 112a violation. Enclosure (10).

i. On 13 July 2024, Petitioner submitted a request for redress to the CO asking that he withdraw his recommendation for withholding of her promotion to E8 based upon the Commander [REDACTED] decision to set aside the NJP and the not guilty findings of the subsequent SPCM. She also requested that the adverse Eval be removed. In response to the request for redress, on 18 July 2024, the CO stated the requests, while appropriate, were beyond his power to grant and that he was unable to fulfill her requests. Specifically, pursuant to paragraph 722c of reference (c), an advancement recommendation that is withdrawn, after notification of selection for advancement, is a permanent action for that advancement cycle with no administrative recourse regardless of any subsequent CO's desire to restore the advancement recommendation. The CO advised Petitioner that the only recourse for her request was to petition this Board. Additionally, he indicates that PERS advised him that the only way to remove the adverse Eval was also to petition this Board. Lastly, the CO further indicates pursuant to NAVPERS 15560D, the Legal department was actively working to forward the Report of Results of Trial to PERS-83, with the understanding and belief that the report would clear any related flags in the Petitioner's Official Military Personnel File (OMPF). Enclosures (11) and (12).

j. On 15 July 2024, the CO of the [REDACTED] submitted the Report of Results of Trial to Navy Personnel Command (NPC), indicating that from 8 to 11 July 2024, a SPCM was held for the Petitioner for violations of the Uniform Code of Military Justice (UCMJ), Article 112a, wrongful use, possession, etc., of a controlled substance (two specifications). Petitioner was found not guilty of Article 112a, and no sentence was adjudged. He also indicated that he did not intend to pursue further administrative action against Petitioner. Enclosure (13).

k. On 25 July 2024, the Petitioner submitted a complaint of wrongs to the Commander, [REDACTED] concerning NJP, contending that there was a lack of compliance. Specifically, the Petitioner contended that the Eval ending 21 September 2023 contained factually incorrect information and that the promotion withholding recommendation violated the law for which the NJP was set aside in its entirety. The court's subsequent finding of NOT GUILTY rendered the Eval and promotion recommendation inaccurate. Enclosure (14).

l. Petitioner contends that there has been a lack of compliance from the CO aboard the [REDACTED]. Petitioner claims that on multiple occasions she was adversely reprimanded for a Non-Judicial Punishment (NJP) imposed by the CO, despite the NJP being set aside entirely by [REDACTED] on 14 December 2023. Furthermore, she asserts the CO failed to remedy the inaccuracies in her evaluation and E-8 promotion status after she refused NJP in January 2024 and her case was referred to a Special Court-Martial (SPCM). Additionally, Petitioner asserts that on 11 July 2024, she was found not guilty, confirming no misconduct or NJP findings. Despite these findings, she contends that the CO deferred action, claiming the matter was beyond his authority. Lastly, Petitioner emphasizes that despite her efforts to rectify the errors, she has encountered numerous obstacles and significant delays without receiving necessary assistance from the command aboard the [REDACTED].

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m. By memorandum dated 21 August 2024, Navy Personnel Command, Performance Evaluations Branch (PERS-32) provided an advisory opinion (AO) for the Board's consideration concerning Petitioner's request for removal of the Special/Regular report covering the period from 16 November 2022 to 15 November 2023. The AO determined the contested Eval is not on file in Petitioner's OMPF or Performance Summary Report (PSR). Next, the AO noted the contested Eval, provided at enclosure (5), is an adverse report and, if PERS-32 processes it, the system will reject the report due to the absence of the member's signature. Pursuant to reference (d), if the rejected report is not corrected by the reporting senior within 180 days, PERS-32 will accept and place the rejected report on the OMPF with a final disposition memo stating the errors on the report. Thus, PERS-32 was unable to provide a recommendation due to the Eval not being in Petitioner's OMPF. Enclosure (15).

n. By memorandum dated 27 December 2024, Navy Personnel Command, Enlisted Career Progression Branch (PERS-803) provided an advisory opinion (AO) for the Board's consideration, recommending disapproval of her request for reinstatement to Senior Chief Petty Officer (SCPO/E-8). In this regard, the AO noted Petitioner was selected for SCPO by the Fiscal Year (FY) 2024 Active E8/9 Advancement Selection Board. However, on 13 September 2024, her advancement was withheld due to an ongoing investigation. Subsequently, on 4 October 2024, the CO withdrew his promotion recommendation following a rebuttal letter from Petitioner. The AO determined that this action was completed prior to the limiting date of June 2024 pursuant to reference (c). Therefore, the member's request for reinstatement to SCPO is disapproved. Enclosure (16).

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded the Petitioner's request warrants favorable action.

The Board considered the recommendation provided by PERS-803 AO regarding the Petitioner's request to reinstate her advancement to E-8 and the Board acknowledged that the CO appropriately withheld the Petitioner's advancement, pursuant to reference (c), due to the ongoing investigation at the time. However, given that there is now no record of misconduct in the Petitioner's OMPF, the Board concluded that the CO's withdrawal of the advancement recommendation is unjust. Therefore, the Board determined that the Petitioner shall be advanced to the rank of E-8; effective the date the Petitioner would have been advanced had the recommendation withdrawal not occurred.

Furthermore, the Board also determined that, based upon the finding of Not Guilty at SPCM, that the two Page 13 counseling entries notifying the Petitioner of the CO's decision to withdraw his recommendation for advancement, along with the associated rebuttal statements, are now also unjust and should also be removed from her OMPF.

Based on the same rationale, the Board also determined the Special/Regular report for the reporting period 16 September 2023 to 21 September 2023 at enclosure (5) should not be entered into the Petitioner's OMPF as a matter of equity.



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## RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner's naval record be corrected by removing enclosures (3) through (8) from her OMPF.

Petitioner's naval record be corrected by revalidating Petitioner's Cycle 226 profile sheet and advance her in rank to E-8 accordingly. Petitioner's advancement to E-8 be reinstated to her original effective date of promotion.

Note: The Defense Finance and Accounting Service will conduct an audit to determine amounts due, if any.

That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record, and that no such entries or material be added to the record in the future. This includes, but is not limited to, all information systems or database entries that reference or discuss the expunged material.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

