



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. 8396-24
Ref: Signature Date

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Dear Petitioner:

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 27 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 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 your personal appearance, with or without counsel, would 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.

The Board carefully considered your request to remove your 13 April 2017 Unit Punishment Book (UPB), which documents your Non-Judicial Punishment (NJP). The Board considered your contentions the NJP is erroneous in nature, you did not commit the acts alleged, and it was set aside. The Board also considered your claim that the NJP was due to an investigation fixated on holding you accountable for actions you did not do. You also claim that upon return from deployment your parent command conducted a second investigation and that you requested trial by court-martial; however, due to the length of the proceedings you decided to accept NJP to move forward with your career.

However, the Board noted the Marine Corps followed all of its procedures for awarding NJP and determined it should remain in your record. In this regard, the Board noted you received NJP on 13 April 2017 for violating Article 134, of the Uniform Code of Military Justice (UCMJ). The

Board further considered the reviewing officer comments in your fitness report ending 13 April 2017, which indicate that you pleaded guilty at NJP. In addition, the Board noted your statement in which you take responsibility for your actions. The Board noted you acknowledged your Article 31, UCMJ Rights, you accepted NJP, you did not submit written matters for consideration, and you did not appeal your Commanding Officer's (CO) finding of guilt at NJP. The Board determined that your NJP was conducted according to the *Manual for Courts-Martial* (2019 ed.) and your CO acted within his discretionary authority to impose NJP. The Board also determined that when making the decision to impose NJP, the CO relied on a preponderance of evidence that substantiated the allegations of misconduct.

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 determined the evidence you provided was insufficient to overcome this presumption. As a result, the Board concluded that there is no probable material error or injustice warranting removal of your NJP. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

9/25/2024

