



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

██████████
Docket No. 8662-24
10755-23

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 5 September 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.

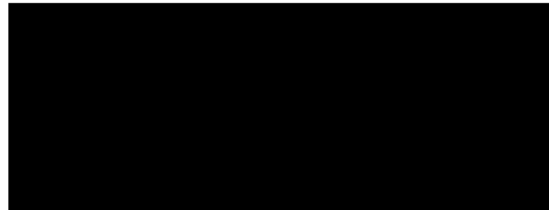
Due to the new evidence documenting your mild Trauma Brain Injury (TBI) diagnosis on 11 November 2022, following a 4 November 2022 motor vehicle accident, the Board carefully considered your request to remove the Detachment for Cause (DFC) documentation, to include the request, endorsements, and approval, and the 5 September 2023 Status in the Navy letter from your Official Military Personnel File (OMPF). You contend neither Commander, ██████████ (██████████) nor Commander, ██████████ (██████████) had a full understanding of your “relevant medical condition” when they “took actions and provided written endorsements.” Additionally, you contend your complete medical history was not taken into account in the Preliminary Investigation which formed the “sole basis for actions and endorsements.” Lastly, you contend that “an accurate understanding of [your] medical condition shortly after the motor vehicle collision would have altered the actions and endorsement.”

However, the Board determined your new evidence did not overcome the previous Board's decision. Specifically, the Board noted the TBI was the result of and not the cause of your motor vehicle accident. This Board reiterated the determination [REDACTED] acted within his discretionary authority when he requested your DFC after he lost confidence in your ability to command due to your 4 November 2022 alcohol related accident, concluded knowledge of your mild TBI diagnosis would have been irrelevant to his determination, and found that you did not submit evidence to the contrary. Further, the Board specifically noted the endorsement by [REDACTED], stated "[t]he investigation provided clear and convincing evidence [you] were operating [your] vehicle while impaired." Additionally, this Board emphasized the District Court's dismissal, which is not binding on the command, did not state the allegations "were found to be without merit" nor did the Federal Court and state action "formally unsubstiate" the "event and ensuing actions." Based on the available evidence, the Board again concluded there is insufficient evidence of an error or injustice warranting a correction to 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,

9/22/2024

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