



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. 8679-24
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 10 October 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, as well as the 29 August 2024 Advisory Opinion (AO) provided by Navy Personnel Command (PERS 32) which was provided to you on 4 September 2024. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

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 Evaluation & Counseling Records (EVALs) issued to you while assigned to █ (█), █, for the period spanning September 2021 to June 2023. A review of your records indicated three EVALs: (1) Periodic EVAL for the reporting period 11 July 2020 to 15 September 2021, (2) Detachment of Reporting Senior (RS) EVAL for the period 16 September 2021 to 5 August 2022, and (3) Detachment of Individual EVAL for the reporting period 6 August 2022 to 12 June 2023. You contend the Evals should be removed because the Command Master Chief "utilized his position and influence to spread unsubstantiated and biased narratives" to the RS which violated your due process rights and did not adhere to the

“JAGMAN¹.” You further contend “multiple attempts were exhausted” to handle the grievance at the lowest level but “Admiral’s & Captain’s Mast rejected [the] case, 5354/2 and Military Whistleblower Protection Act complaints were deemed untimely.”

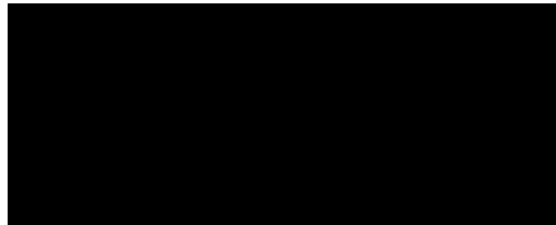
The Board, substantially concurring with the PERS-32 AO and noting you did not provide any evidence, other than your statement on the DD Form 149, in support of your contentions, determined there was insufficient evidence of error or injustice in the three EVALs issued by [REDACTED], [REDACTED]. Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting your requested relief.

The Board thus determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. 10 USC 1034 provides the right to request Secretary of Defense (SECDEF) review of cases with substantiated reprisal allegations where the Secretary of the Navy’s follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with Department of Defense policy, you have the right to request review of the Secretary of the Navy’s (SECNAV’s) decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the SECNAV acted arbitrarily, capriciously, or contrary to law. This is not a *de novo* review and under 10 USC 1034(c) the SECDEF cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness (USD (P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your Board application and final decisional documents; and a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the Board, therefore, please also include previously presented documentation that supports your statements.

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,

11/7/2024

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¹ The Board assumed you were referring to the Manual of the Judge Advocate General (JAG), JAGINST 5800.7G.