



‘set aside’ of the NJP” in August 2020. However, there is no evidence in the record, and you submitted none, to support this claim. You were also issued an adverse Fitness Report for the reporting period 1 June 2019 to 31 October 2019 which documented your NJP. Although you were given an opportunity to submit a statement, you chose not to. By memorandum dated 5 August 2019, Commander, ██████████ notified Commander, Navy Personnel Command (PERS-834) of your NJP. The Show Cause Authority recommended that you not be detached for cause or that you be required to show cause for retention in the naval service before a Board of Inquiry (BOI). On 20 January 2020, PERS-834 notified you that you were not required to show cause for retention in the naval service, and that the adverse material would be inserted into your record. You were also advised that you may submit a statement in response to the adverse material. You were subsequently selected for continuation by the Fiscal Year (FY) 2023 Active Duty Navy Lieutenant Commander Line Continuation Selection Board. On 9 March 2023, the Secretary of the Navy (SECNAV) approved your continuation on active duty.

### *Requested Relief and Contentions*

The Board carefully considered your request to correct your military record by (1) setting aside the Captain’s Mast held on 18 July 2019, and any related documentation; (2) expunge any adverse Fitness Reports resulting from the NJP; (3) convene a Special Selection Board (SSB) for promotion to Commander; (4) ensure you are eligible for retirement benefits and any other career opportunities which were adversely impacted by the NJP; and (5) any other relief deemed just and proper under the circumstances. The Board considered your contentions as follows: (1) you were denied adequate legal representation during your NJP proceedings and thereby denied due process; (2) the punishment imposed was arbitrary and capricious and not based on a fair assessment of the facts; (3) the findings against you were heavily reliant on the testimony of a single instructor, without additional corroborating evidence; and (4) the impact of the NJP has delt a significant blow to your career opportunities and eligibility for retirement benefits.

The Board carefully reviewed your petition and the material that you provided in support of your petition and disagreed with your rationale for relief. The Board noted that before accepting NJP, you were advised of your right to refuse NJP and demand trial by court-martial, afforded an opportunity to consult counsel prior to accepting NJP, and advised of your right to appeal the NJP. The Board determined there was insufficient evidence that your legal counsel was rushed, inadequate, or unclear, noting that your PLA clearly states that you “accepted NJP after meeting with defense counsel on multiple occasions.” Likewise, there was insufficient evidence that you were denied an opportunity to review the evidence against you, or that you were coerced into accepting NJP. The Board found no indication of procedural violations that materially impacted the fairness of the NJP proceedings.

The Board considered your contention that the punishment imposed was arbitrary and capricious and not based on a fair assessment of the facts. However, the Board noted in your PLA, Commander, ██████████ indicates you admitted to changing the quiz answer. The PLA also notes that a “preliminary investigation contained statements from four . . . instructors who specifically remember your quiz and the answer in question.” Even assuming *arguendo*, without conceding that there were due process violations, or that the punishment imposed was arbitrary and capricious, the Board noted that you had an opportunity to appeal the NJP on the grounds that it

was unjust or disproportionate, but you chose not to. 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.

Regarding your request to remove your contested Fitness Report, the Board determined that your fitness report is valid. In making this finding, the Board noted that your fitness report documented your NJP and determined that the Performance Evaluation System Manual allows the reporting senior (RS) to document concluded NJP cases where there has been a finding of guilt and the awarding of punishment. The Board noted you signed the fitness report, indicating your acknowledgement of its contents and declined to submit a statement.

The Board considered your claim that the NJP has disproportionately impacted your career, including your non-selection for promotion. However, the Board determined non-selection for promotion does not inherently warrant the convening of an SSB unless a material error or administrative oversight materially impacted a promotion selection board's decision, which the Board concluded has not be demonstrated in your case. Therefore, the Board determined the convening of a SSB is not warranted.

The Board considered your claim that the NJP could result in a potential loss of retirement benefits. However, the Board noted the Show Cause authority determined the incident reported did not require you to show cause for retention in the naval service. Furthermore, you were selected and approved for continuation on active duty until retirement eligible.

The Board concluded 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 requests do 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,

1/28/2025

