



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

██████████
Docket No. 10440-24
Ref: Signature Date

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Dear ████████████████████,

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.

A three-member panel of the Board, sitting in executive session, considered your application on 29 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.

The Board carefully considered your request to remove and/or modify your 22 April 2024 Administrative Remarks (page 11) 6105 counseling entry and promotion restriction entry. The Board considered your contention that you were placed on an 18 month promotion restriction for violation of Article 92 of the Uniform Code of Military Justice (UCMJ) vice Article 112a. You further contend that pursuant with MCO P1400.32D, (MARCORPROMAN, VOL 2, ENLPROM) the promotion restriction should have been three months. The Board further considered your assertion that the Unit Punishment Book references Article 92 of the UCMJ for violation of ALNAV 074/20.

The Board noted on 19 April 2024 your commanding officer (CO) imposed nonjudicial punishment (NJP) for violation of Article 92 of the UCMJ for violating ALNAV 074/20. Specifically, on or about 22 January 2024 and 22 February 2024 wrongful use of a substance which caused you to test positive for Tetrahydrocannabinol-8 (THC-8) on a urinalysis. You were advised of your rights under Article 31 and acknowledged your right to demand trial by court martial in lieu of NJP. As punishment, you were reduced in grade to lance corporal (E-3), placed on 45 days restriction, and you received 45 days extra punitive duties. You also received forfeiture of \$1,129 for two months, which was suspended for six months. The Board noted that

you accepted NJP, you did not submit written matters for consideration, and you did not appeal your CO's finding at NJP.

As a result of NJP, the Board noted, too, pursuant with paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN) on 22 April 2024 you were issued a counseling for violation of Article 92 of the UCMJ. The Board noted that you signed the counseling entry and elected not to submit a statement. The Board determined that the contested counseling entry was written and issued according to the MARCORSEPMAN. The Board further noted, pursuant with Marine Corps Individual Records Administration Manual you were also notified that you were in a promotion restriction status for a period of 18 months due to NJP conducted on 19 April 2024 in accordance with para 1204.4 of MCO P1400.32D. You signed the entry, and the Board noted you elected not to submit a written rebuttal.

In regard to your contention that you were found guilty of violating article 92 vice 112a and that your promotion restriction should have been three months vice 18 months, the Board determined your contentions to be without merit. In this regard, the Board noted pursuant with para 1204.4j of MARCORPROMAN, VOL 2, ENLPROM, an NJP incurs a *minimum* three month promotion restriction. However, pursuant with para 1204.4q MARCORPROMAN, VOL 2, ENLPROM prohibits promotion of Marines within 18 months of confirmed use of illegal drugs. The Board also noted ALNAV 074/20 (ALNAV) was published to address the use of hemp products which are commercially available in the United States and strictly prohibits Marines from using any product made or derived from hemp, regardless of whether such product may lawfully be bought, sold, and used under the law applicable to civilians and establishes that the ALNAV is a lawful general order effective immediately. Thus, the Board determined the CO relied upon sufficient evidence (e.g. a positive urine sample) and acted within his or her discretionary authority when deciding that your counseling entries were warranted and determined the promotion restriction period was done in accordance with relevant policies. Moreover, your commanding officer (CO) signed the counseling entry, and he or she determined that your substandard misconduct was a matter essential to record, as it was his or her right to do. The Board concluded that 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 request does not merit relief.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

11/21/2024

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