

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

> Docket No. 11144-24 Ref: Signature Date



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 11 March 2025. 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 9 December 2024 advisory opinion (AO) furnished by the Navy Personnel Command (PERS-32). The AO was provided to you on 18 December 2024, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

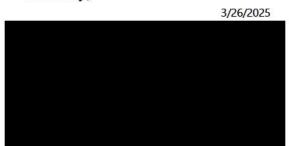
The Board carefully considered your request to remove the evaluation report for the reporting period 1 October 2022 to 19 May 2023, and all adverse matters related to your 12 May 2023 nonjudicial punishment (NJP). The Board considered your contention that the NJP was set aside based on MILPERSMAN 5812-010. You also contend that the proper paperwork to remove the adverse evaluation report and Court Memorandum was not submitted. You claim you were reinstated to Third Class Petty Officer on 27 December 2023. You also claim the commanding officer, set aside your NJP based upon performance, work ethic, and remorse. Additionally, all of your evaluation reports since the NJP state that you are a hardworking and gifted mechanic.

The Board, however, substantially concurred with the AO that your evaluation report is valid and issued according to the applicable Navy Performance Evaluation System Manual (EVALMAN). In

this regard, the Board noted that the EVALMAN permits general commenting on misconduct and adverse actions against a member whenever the facts are clearly established to the Reporting Senior's (RS) satisfaction. In your case, the RS provided comments in block 43 that substantiates the 2.0 performance traits, specifically, that the report was submitted upon your reduction of rate due commanding officer's NJP for violating Uniform Code of Military Justice, Article 113.

The Board also noted that you requested reinstatement of your rank and according to the Page 13, the commanding officer approved your request and reinstated your rank to E-4 effective 27 December 2023 in accordance with MILPERSMAN 1430-020. The Board further noted that your rank was reinstated more than seven months after your NJP. The Board determined that the reinstatement of your rank is not tantamount to the setting aside of your NJP. Moreover, the Board found no evidence other than your statement that your NJP was set aside. The Board thus 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 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,