



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. 872-25
Ref: Signature Date

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Dear █

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 25 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.

The Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to reinstate your rank to E-4. You also request to correct the evaluation report for Cycle 255, and if possible, remove your 17 February 2022 nonjudicial punishment (NJP). The Board considered your contention that there is clear evidence of reprisal and retaliation for your protected communication. You also contend that you were denied fair evaluations, reassigned unjustly, and suffered retaliation that affected your mental health and career. You mentioned two service members that you believe were not good people and claim there was a history of neglect. As evidence, you provided materials obtained through the Freedom of Information Act and an investigation of the █
█ following Sailor suicides.

You enlisted in the Navy and commenced active duty on 8 September 2020. On 17 February 2022, you received NJP or violating Uniform Code of Military Justice (UCMJ), Article 104 for removing divisional counseling chits from a government computer and from your physical

division record, Article 107, for denying that you went into your divisional record, and Article 121, for stealing AirPods valued at about \$150 from another Sailor. You were awarded reduction in rank to E-3 and forfeitures of pay. The Board noted that you acknowledged your Article 31, UCMJ Rights, accepted NJP, and certified that you were afforded the opportunity to consult with a military lawyer. You elected to appeal your NJP and your appeal was denied. You received an Evaluation Report from 17 February 2022 to 8 June 2022 documenting your NJP.

The Board found no evidence of an error or injustice and determined that your Commanding Officer acted within his discretionary authority and conducted your NJP pursuant to the applicable Manual for Courts-Martial. Based on the foregoing, the Board found no basis to reinstate your paygrade to E-4 or remove the NJP. Additionally, the Board determined that your 17 February 2022 to 8 June 2022 Evaluation Report is valid and processed according to the applicable Navy Performance Evaluation System Manual. Moreover, the Board is not an investigative body and relies on a presumption of regularity to support the official actions of public officers, in the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption.

Further, you indicate in your application that Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), and other mental health conditions are related to your request for relief. While the Board noted the post-discharge evidence you provided, other than your statement, the Board found no evidence of a PTSD, TBI, or other mental health diagnosis while you were on active duty¹. As a result, the Board found no evidence of a nexus between your purported mental health diagnosis and your misconduct. Additional records (e.g., active duty medical records, post-service mental health records describing your diagnosis, symptoms, and their specific link to your misconduct) would aid in rendering an alternate opinion.

The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting setting aside the NJP, reinstatement of your paygrade, or removal of the adverse performance evaluation. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You also indicate in your application that you are the victim of reprisal. The Board also determined your evidence was insufficient 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 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 DoD policy you have the right to request review of the Secretary of the Navy'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 Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a *de novo* review and under 10 USC § 1034(c) the Secretary of Defense 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

¹ The Board also noted that your "buddy statements" describing conditions onboard ██████████ were all unsigned.

(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 BCNR 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 BCNR, 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,

4/21/2025

