



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

██████████
Docket No. 2268-25
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 13 August 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 would 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 selection to E-8. The Board considered your contention that an administrative action was unwarrantedly executed to remove your frocking and selection to E-8. A Significant Problems evaluation administratively reversed and withheld your advancement to E-8. You contend since there was not enough information or evidence to pursue non-judicial punishment (NJP), your frocking and selection to E-8 should not have been removed. You also claim that you were not provided with copies of the investigation for your records.

The Board noted that you were issued a Significant Problems evaluation for the reporting period 16 September 2023 to 15 September 2024 in which performance traits for "Deckplate Leadership" and "Character" were marked 1.0. As justification, your Commanding Officer (CO) commented, in part, that the 1.0 marks were "due to an evaluation of Below Standards for this

period of report.” Specifically, due to your lapse in judgement on several items during this period, continuous failure to develop realistic work plans for your division, and you required constant oversight to ensure maintenance plans were developed and to manage day-to-day operations. Additionally, you were removed from your supervisory position during the reporting period.

The Board also noted that you were issued an Administrative Remarks (Page 13), on 22 July 2024, notifying you that the authority for your frocking was removed. On 25 September 2024, you were notified regarding the adverse nature of your evaluation report and your right to submit a statement.

The Board determined that your frocking and recommendation for advancement were properly removed in accordance with the Navy Advancement Manual for Enlisted Personnel (BUPERSINST 1430.16G) and MILPERSMAN 1420-060. In this regard, MILPERSMAN 1420-060 provides that the authority for frocking may be removed when a CO determines a member is no longer eligible or deserving. BUPERSINST 1430.16G authorizes COs to withdraw a recommendation for advancement at any time, prior to the advancement effective date, if the CO determines the member is no longer qualified for advancement. Accordingly, the Board determined that your CO acted within his/her discretionary authority and provided sufficient justification for submission of your Significant Problem evaluation report in accordance with the Navy Performance Evaluation System Manual.

The Board determined that the imposition of NJP is not required for a CO to remove frocking authority or to withdraw an advancement recommendation. The Board also determined you were not entitled to a copy of the investigation for your records¹. Moreover, the Board 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. 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 also indicate in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude that your frocking and advancement recommendation were withdrawn as reprisal in violation of 10 U.S.C § 1034. In making this determination, the Board found no evidence other than your statement that your frocking and advancement recommendation were withdrawn as a reprisal action.

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

¹ You may submit a request for the investigation in accordance with the Freedom of Information Act.

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 (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,

8/26/2025

