



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 3108-25
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 11 December 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 31 March 2025 advisory opinion (AO) provided by Navy Personnel Command. The AO was provided to you on 8 April 2025, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal to the AO, you did not do so.

The Board carefully considered your request to remove the fitness report covering the period of 1 April 2022 to 30 March 2023 from your record, along with your contentions that 1) You were considered guilty before proving your innocence and are still being treated as such, which has continuously impacted your career; 2) The fitness report is unjust because it comments on a positive urinalysis when no illegal drug use was confirmed; 3) Removal of the "Gunner" comment on the report could make one think you were detached for cause; 4) You were sent temporary additional duty (TAD) immediately due to the CO's belief you were guilty and not due to your performance prior to the urinalysis; 5) You refused non-judicial punishment (NJP) and requested court-martial, and the fitness report was issued after your Board of Inquiry (BOI) was held, during which no illegal drug use was confirmed; and 6) You were not selected in zone for CWO4 and are on your final look.

After careful review, the Board concurred with the AO in its entirety, finding that you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of

the fitness report. Specifically, review of your record reveals the report in question to be on file and properly entered. You signed the report acknowledging its content and your right to submit a statement. Your statement and your reporting senior's (RS) endorsement of that statement are also on file. Based on BUPERSINST 1310.10F, the EVALMAN, your report is valid. Further, the EVALMAN states that your RS may include comments on misconduct whenever the facts are clearly established to the RS's satisfaction that the misconduct occurred. In your case, as he stated in his comments, the RS relied on a positive urinalysis for cocaine, dated 21 March 2022. You do not directly challenge or question the procedures or results of that urinalysis. Although his endorsement, dated 11 April 2023, states you did refuse NJP, that refusal has no bearing on his authority to document the misconduct in a fitness report.

When your BOI later found the preponderance of evidence did not warrant your separation for cause, although you find it exonerating, it did not override your RS's prior responsibility to evaluate and comment on your performance at the time of your positive urinalysis result. An administrative process occurring after issuance of a valid fitness report does not render the fitness report invalid or unjust.

The only question the Board must answer in assessing your case is whether your RS abused his discretionary authority in issuing the adverse fitness report. However, the RS is charged with the responsibility of commenting on the performance or characteristics of each member under his command and has discretion to determine what material will be included in a fitness report. For us to grant you relief, you must show that either there was no rational support for the RS's action or that he acted for an illegal or improper purpose. In your case, however, the Board is convinced the RS was within his authority to issue the adverse fitness report and document misconduct, as it was in his discretion to comment on misconduct whenever the facts clearly establish, to his satisfaction, the misconduct occurred. Nothing in your petition indicates he acted for illegal or improper purposes. As such, the Board found your application did not meet the burden of proof or show by preponderance of the evidence probable material error, substantive inaccuracy, or injustice, and concluded your request should be denied.

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,

12/31/2025

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