



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 3332-25

Ref: Signature Date

[REDACTED]

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 3 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.

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

The Board carefully considered your request to remove your Final Civil Action Report (FCAR) and its associated documents from your record. The Board considered your contentions that you were not convicted of a crime, found guilty of any criminal activity, or subjected to disciplinary action and your performance evaluations during and after the incident contained no negative remarks. You also contend that under Washington State law, officers must make an arrest when responding to a third-party report of domestic violence, regardless of the circumstances or investigation's outcome. You provided a Report of No Misconduct from your current Commanding Officer (CO) in support of your petition.

The Board noted that your former CO submitted a FCAR noting that units were dispatched due to reports of a domestic incident between you and your spouse on 10 December 2021. You were arrested and charged with assault in the 4th degree-Domestic Violence. The Board also noted that you entered into a pre-trial diversion program with the agreement that the prosecution would

move to dismiss the charge if you successfully complied with the diversion agreement. You acknowledged the FCAR and you availed yourself of the right to submit a statement. In accordance with MILPERSMAN 1616-040, your FCAR was forwarded to Navy Personnel Command (PERS-832) for review and inclusion in your official record.

The Board determined that your FCAR was properly filed in accordance with MILPERSMAN 1616-040. MILPERSMAN 1616-0404 requires a CO notify Navy Personnel Command (PERS-832) when a Service member is arrested for or charged with a civil offense that would also be an offense under the Uniform Code of Military Justice (UCMJ). Your arrest for assault in the 4th degree (Domestic Violence) is such an offense.

The Board determined that a lack of charges or finding of guilt is not a basis for removal of your FCAR. In this regard, a pre-trial diversion program is not a finding of innocence. You entered into and successfully completed a pre-trial diversion program, which led to the dismissal of the charges against you. However, agreeing to this program is an alternative to traditional court proceedings and is not confirmation of your innocence or proof that the incident did not occur. The Board concluded that completing the program does not negate the underlying misconduct that led to your arrest.

The Board found your argument regarding [REDACTED] law to be unpersuasive. According to the [REDACTED] Manual for Judges, a mandatory arrest is only required in specific situations where an officer has probable cause to believe certain offenses have occurred. Your CO relied on evidence, including a Certificate of Probable Cause, when determining that the FCAR was warranted. This indicates the arrest was based on more than just a procedural requirement.

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 public officers have properly discharged their official duties. While the Board noted the "Report of No Misconduct" from your current CO, it was not found in your official record and was not considered persuasive enough to overcome this presumption.

In conclusion, the Board found sufficient evidence that probable cause existed for your arrest for domestic violence. The subsequent FCAR was prepared and filed in accordance with official regulations. 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,

12/17/2025

[REDACTED]