



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

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Docket No. 4818-25  
Ref: Signature Date

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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 February 2026. 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 █ advisory opinion (AO) furnished by the Navy Office of Legal Counsel (BUPERS-00J) and your response to the AO.

The Board carefully considered your request to remove your nonjudicial punishment (NJP) imposed on 29 September 2024, restore your pay grade to E-6, and address any entitlements affected by the NJP. The Board also considered your contention that your *Booker* Rights were violated because you could not speak with a judge advocate or civilian attorney prior to NJP. Although the documentation shows you spoke with █, the legal counsel you indicated on your NJP notification and election of rights form, a memorandum provided by █ confirms he never spoke with or provided you with legal counsel. You claim that your work schedule prevented you from consulting with defense counsel, as appointments were only available on Tuesdays and Thursdays.

The Board's review found that your NJP is valid and it concurred with the AO. Specifically, the Board determined that your NJP was conducted in accordance with the applicable Manual for Courts-Martial (MCM). In making their determination, the Board considered that the punishment was imposed for violating Uniform Code of Military Justice (UCMJ), Articles 92,

115, and 117. These violations included unwelcome conduct based on sex and race, which created a hostile and abusive work environment, communicating a threat to a junior Sailor, and using provoking language toward a junior Sailor.

According to the record, you were properly notified of your Commanding Officer's intent to impose NJP and the alleged offenses. The record also indicates that the allegations were based on a Preliminary Inquiry and witness statements. You requested a personal appearance and the presence of three witnesses at your NJP, and you acknowledged that you were given the opportunity to consult ██████████, a military lawyer, and did so on 19 September 2024. However, in your appeal, you argued that you were denied the opportunity to speak with an attorney. Ultimately, Commander of ██████████ denied your appeal after finding that the rights advisement record associated with your NJP was in accordance with Article 15 and you indicated that you were both informed of and exercised your right to consult with counsel. ██████████ also determined that the punishment imposed was neither unjust nor disproportionate and that no legal or factual errors materially prejudiced any of your substantive rights.

The Board determined that your contention that your command failed to follow policy and denied your *Booker* Rights lacks merit. The purpose of *Booker* Rights is to ensure a service member understands their right to refuse NJP and consult a lawyer. Failure to provide these rights means the NJP record cannot be used later to increase a court-martial sentence but it does not invalidate the NJP itself. Even if, for the sake of argument, your *Booker* Rights were not provided, the Board noted you were not subject to a court-martial.

Further, according to the Manual of the Judge Advocate General, the NJP authority is required to afford the accused the opportunity to consult with counsel when operationally feasible. In reviewing the record, the Board found no evidence that you were restricted from consulting with counsel. Such consultation can occur via any appropriate means of communication, including telephone or video teleconference, within a reasonable amount of time. The Board noted that while the Defense Service Office (DSO) website mentions walk-in hours on Tuesdays and Thursdays, it also provides for remote consultations without any limitation on availability. The Board found no evidence that you availed yourself of this opportunity.

Concerning the memorandum for the record (MFR) from the Commanding Officer, ██████████, the Board determined that his MFR merely establishes that he was unable to consult with you because your email requests, sent on 18 and 19 September 2024, went to his spam folder. The Board noted that you were notified of your Commanding Officer's intent to impose NJP on 15 September 2024, and you had 14 days until your NJP on 29 September 2024 to follow up on your previous requests. The Board also concurred with ██████████'s determination that your record documents that you had consulted with ██████████ on 19 September 2024. The Board understands you dispute that fact and considered your arguments that your acknowledgement on the form were coerced, however, the Board determined you provided insufficient evidence to substantiate your allegation. The Board considered that you provided no evidence, other than your statement, to support your allegation. Further, as explained above, the Board was not persuaded by ██████████'s statement since it does not address the crux of your allegation, that your Chief Petty Officer ordered you to write down ██████████'s name and acknowledge your

