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

JSR
Docket No: NR438-14
12 June 2014

[redacted]

Dear Gunnery Sergeant [redacted]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 June 2014. 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, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions from Headquarters Marine Corps dated 25 April and 8 May 2014, copies of which are attached, and your letter dated 6 June 2014.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. The Board was unable to find you were not counseled on 10 July 2012, or that you were not afforded an opportunity to submit a rebuttal to the contested counseling entry. If you are correct that the entry was not forwarded for file in your record within 30 days, the Board found this would not support removing it. Finally, the Board was unable to find the investigating officer who conducted the investigation on which the contested entry was

based did not advise you of your rights before interviewing you, that he failed to consult with a judge advocate, that he failed to interview necessary witnesses, or that the investigation gleaned false information. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously 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,

ROBERT D. ZSALMAN
Acting Executive Director

Enclosure