



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

[REDACTED]  
Docket No. 3880-16  
MAY 22 2017


[REDACTED]  
  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 March 2017. 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, your naval record and applicable statutes, regulations and policies. The Board also reviewed the advisory opinion (AO) provided by Headquarters Marine Corps memorandum 1070 JPL dated 19 December 2016, which was previously provided to you. Additionally, the Board considered your response to the AO dated 16 February 2017.

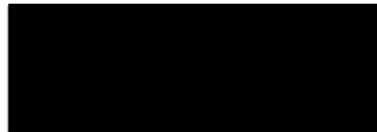
On 16 April 2012 in [REDACTED] you were involved in a physical altercation with an inebriated U.S. Army Staff Sergeant, which led to your arrest. A command investigation was completed on 5 June 2012, and on 3 October 2012, a report of misconduct was forwarded to the Commandant of the Marine Corps (CMC). The report noted, as a result of the incident you had been relieved for cause from company command and received an informal counseling by the Commander, U.S. Marine Corps Forces, [REDACTED]. The report shows that you acknowledged receipt of the report and that adverse materials concerning the incident would be forwarded for inclusion into your Official Military Personnel File (OMPF). You were afforded the opportunity to submit a statement for inclusion with the report in your OMPF, but elected not to submit a statement. On 6 December 2012, the Deputy Commandant for Manpower and Reserve Affairs (DC, M&RA) directed your case be closed and that the adverse materials concerning the matter be part of your OMPF.

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. The Board considered your desire to remove the report of misconduct, the redaction of

paragraph 3 of the report of misconduct, and the redaction of paragraph 1 of the final endorsement and your assertions that you were not relieved for cause. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Specifically, the report of misconduct was a formal report of the disposition of your misconduct and must be forwarded to CMC (JAM) for inclusion into your OMPF and no evidence that the  administratively closed this report, and only the DC, M&RA has the authority to close a case. Lastly, the Board concluded that you provided no evidence to support your assertion that you were not relieved for cause. The Board did recognize that you acknowledging the receipt of the formal report of misconduct and chose not to make a rebuttal statement to contest the report. Accordingly, your application has been denied.

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 evidence. New evidence is evidence 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,



Executive Director