



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

■
Docket No. 144-21
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 28 October 2021. 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 your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

Your application issues were bifurcated for consideration by two separate Board panels. This Board carefully considered your request to change your RE-4 reentry code to a RE-1, promote you to Gunnery Sergeant effective 1 January 2019, remove derogatory information, and correct your performance evaluations. The remaining issues were considered by a separate Board panel on 4 February 2021 and adjudicated via separate correspondence for Docket NR20210000250.

The Board, having reviewed all the facts of record pertaining to your allegations of error and injustice, found as follows:

Before applying to this Board, you exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

You entered active duty in the Marine Corps in July 2005. After successfully serving on active duty, service that included three tours in Iraq, you were selected for the Marine Corps Enlisted Commissioning Education Program (MECEP).

Your record remained stellar through 16 March 2016 when you were accused of assaulting your wife and placing your children in fear. This led to your referral to the Family Advocacy Program and a deterioration of your professionalism as you contested the allegations made against you. In 2018, you were counseled multiple times for professionalism and directed to attend Family Advocacy counselling sessions. However, records show that you failed to cooperate with Family Advocacy counselors or fully participate in the counselling sessions.

On 26 June 2018, you were referred to a Performance Review Board (PRB) to determine whether you should continue in the commissioning program. On 10 July 2018, the PRB determined you failed to meet aptitude standards and should be disenrolled from the MECEP.

On 12 December 2018, you were issued an Administrative Remarks (Page 11) entry disenrolling you from the MECEP and notifying you that “any non-competitive promotions or selections received while enrolled in the MECEP will be rescinded.” You acknowledged the entry and declined to make a statement.

On 14 December 2018, you received an adverse non-observed fitness report for the reporting period 1 January 2018 to 14 December 2018.

On 19 February 2019, you were issued a Page 11 6105 counseling entry which summarized the previous counseling sessions. Your refusal to acknowledge the entry with your signature was appropriately documented by the Commanding Officer and a witness.

On 19 February 2019, you were notified of administrative separation processing by reason of misconduct due to commission of a serious offense based on your wife’s allegations of assault and your failure to obey orders to attend Family Advocacy counselling sessions. Your commanding officer recommended discharge with an other than honorable characterization of service by reason of misconduct. In approving your discharge with a general characterization of service, the discharge authority, Commanding General, Marine Corps Recruiting Command, based his decision only on your orders violation.

On 13 July 2019, you were discharged with a general, under honorable conditions, character of service by reason of misconduct due to commission of a serious offense and assigned a RE-4 (not recommended for reenlistment) reentry code.

On 25 September 2020, you were reissued a Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting an upgraded character of service and secretarial authority as the narrative reason for separation. Your reentry code remained RE-4.

The Board carefully considered your contentions the command made false allegations following your wife’s unsubstantiated allegations and also reacted in retaliation after you requested mast. You further contend you attended group counseling but on the advice of your military counsel,

you participated “the least [you] could” and believe your RE-code should reflect the “likelihood that [you] would be able to serve in the military again.” The Board also considered your contention that your inappropriate disenrollment from MCECP was due to inaptitude but if your command had listened to the psychologists and given you an opportunity to explain your wife’s allegations “instead of taking them at face value,” then you “would not have been placed in an impossible situation.” You further contend that “due to the command’s malicious intent, false information was documented” in your administrative record. The Board also considered your contention “there was much retaliation and reprisal,” and ██████████ was “collaborating” with the Family Advocacy Program to separate you from the Marine Corps at any cost.

The Board noted you were counseled on five occasions from 18 April 2018 to 19 June 2018 and these counseling sessions were summarized in the 19 February 2019 Page 11 6105 counseling entry. The Board determined the counseling entry creates a permanent record of matters your commanding officer deemed significant enough to document. The Board also determined the entry met the 6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN). Specifically, the Board noted the entry provided written notification concerning your deficiencies and specific recommendations for corrective action indicating any assistance available. You were afforded the opportunity to rebut the counseling entry, but you declined to provide a rebuttal for inclusion in your OMPF. Further, the Board noted the counseling entry was appropriately issued by the commanding officer as evidenced by his signature on the entry and your refusal to acknowledge the entry was properly documented. The Board thus concluded there is insufficient evidence of material error or injustice warranting the removal of the 19 February 2019 Page 11 6105 counseling.

The Board further noted there was insufficient evidence to support your contentions the commanding officer was collaborating with the Family Advocacy Program to separate you from the Marine Corps or that he retaliated against you. Additionally, the Board determined there was insufficient evidence of an error or injustice in your disenrollment from MECEP and the subsequent administrative separation and further concluded you were appropriately assigned a RE-4 reentry code. For purposes of clemency, the Board noted you did not provide supporting documentation or advocacy letters and, even applying liberal consideration, concluded there was insufficient evidence of an error or injustice that warrants changing your reentry code to a RE-1 (recommended for reenlistment) reentry code.


The Board noted you did not specify an error or injustice in your performance evaluations and concluded, based on the determination the counseling entry, disenrollment, and subsequent administrative discharge were authorized and appropriate, there is insufficient evidence of an error or injustice in the performance evaluations issued during your time in MECEP.

Lastly, the Board noted you acknowledged on two occasions that “any non-competitive promotion or selection received while in enrolled in MECEP will be rescinded.” The Board noted you were properly disenrolled from MECEP in 2018. In April 2019, you were considered for promotion to gunnery sergeant but not selected. The Board concluded there was insufficient evidence of an error or injustice warranting your promotion to gunnery sergeant effective 1 January 2019.

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,

11/19/2021

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Executive Director

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