



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

█  
Docket No: 4808-21  
Ref: Signature Date

█  
█  
█  
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 1 February 2022. 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 carefully considered your request to remove your 14 January 2021 Administrative Remarks (page 11) entry. The Board considered your contention the entry states that you were convicted of a misdemeanor for reckless driving, although the court document states that you were convicted for improper driving, an infraction, not a misdemeanor. You also contend that the reference noted in the entry applies to reservist.

The Board noted that pursuant to the Marine Corps Individual Records Administration Manual (IRAM), you were issued a page 11 entry counseling you for "conviction of a misdemeanor. Specifically, on 13 July 2020, you were cited for improper control/driving a motor vehicle . . ." The entry also counseled you regarding reenlistment eligibility criteria along with your disregard for numerous classes and safety briefs regarding the importance of motor vehicle operator safety and following all traffic laws. The Board also noted that you acknowledged the page 11 entry and elected to not submit a statement. The Board determined that the contested entry was issued and written according to the IRAM. Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, and it afforded you the opportunity to submit a rebuttal.

The Board noted that Marine Corps Order 1040.31 is the Marine Corps Enlisted Retention and Career Development Program Manual and it does pertain to active duty Marines. The Board also noted that according to *Strickland v. United States*, 69 Fed. Cl. 684, 710 (Fed. Cl. 2006) (quoting *Wagner v. United States*, 365 F.3d 1358, 1361(2004)) “Mere technical procedural error is insufficient to warrant reversing the agency’s administrative decision” and according to *Milas v. United States*, 42 Fed. Cl. 704, 713 (1999) “The error must be a violation of mandatory published procedure of a substantive nature by which the plaintiff has been severely prejudiced.” Therefore, the Board determined that the inclusion of ‘R’ in the reference and the statement regarding your conviction of a misdemeanor instead of an infraction are harmless errors that are not unjustly prejudicial and do not invalidate the page 11 entry. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

2/14/2022

█  
Executive Director  
█