



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

██████████
Docket No: 7131-21
Ref: Signature Date

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Dear ██████████:

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 8 March 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 determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 19 March 2018, you went on liberty in ██████████ and consumed alcohol. That evening, you waited with a number of Marines for a bus in order to return to the ship. According to the command investigation, a staff sergeant in your group acted disrespectful towards the local national bus driver, used a racial slur towards an officer who was on shore patrol duty, and was belligerent towards shore patrol as well as other sailors who were waiting for the bus. The investigating officer (IO) opined that you, along with two other Marine officers, violated Article 92 (Failure to obey order or regulation) of the Uniform Code of Military Justice (UCMJ) by failing as liberty buddies to take positive actions to ensure the staff sergeant behaved appropriately. The Commanding Officer (CO), ██████████ and the CO, ██████████ concurred with the IO's findings of fact, opinions, and recommendations. The Commanding General, ██████████ endorsed the command investigation on 18 June 2018 and issued you a Report of

Misconduct (ROM) on 9 October 2018. The ROM states there is evidence you violated Article 92 by failing to ensure fellow Marines did not violate MEU liberty orders and that you violated MEU Order (MEUO) 1050.4 by consuming more than three alcoholic drinks. You submitted a rebuttal to the Report of Misconduct on 22 October 2018 contending that the MEU Order does not reference a limit of three drinks and that you did try to correct the staff sergeant. You included with your rebuttal letters from three Naval Officers who were present during the incident and had provided statements for the command investigation. The Commandant of the Marine Corps determined that your case did not warrant processing for administrative separation, closed the case, and directed that adverse material regarding the incident to be included in your Official Military Personnel File (OMPF).

Currently, there are 8 pages of adverse material in your OMPF relating to the 19 March 2018 incident. You argue that these documents are erroneous and unjust as you did not violate MEUO 1050.4 and because there is evidence that you did try to intervene in the situation to stop the staff sergeant from behaving inappropriately. The Board carefully considered your request to remove these documents from your OMPF.

The Board noted that although you provided letters from the three naval officers who were on the bus and had consumed alcohol during the evening, you did not provide any letters from shore patrol who also had observed the incident and had not been drinking that night. The Board also considered the fact that the MEUO states that inappropriate behavior is “excessive use of alcohol or public drunkenness.” Furthermore, the Board noted that the [REDACTED] MEU Staff Judge Advocate (SJA) endorsed the investigation. The SJA found the investigation legally sufficient, contained no errors or irregularities, and concluded that the evidence supported the IO’s findings. Consequently, the Board determined there was insufficient evidence that the adverse material and Report of Misconduct was erroneous or unjust warranting removal of the documents from your OMPF.

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,

4/1/2022

[REDACTED]