



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

█  
Docket No: 7966-21  
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 15 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.

You were the Company Commander at █, █, during █ Range 400 evaluation. Multiple Marines were injured during █ as a result of a mortar live fire incident. The Commanding General (CG), █ issued you a Report of Substandard Performance on 24 July 2020 stating that your lack of oversight to ensure the 81mm mortar platoon was properly trained and following prescribed procedures contributed to the incident. In addition, CG, █ recommended that you be required to show cause for retention in the Marine Corps at a Board of Inquiry (BOI). Upon a change of command, the new CG, █ issued you a Report of No Substandard Performance on 12 November 2020, stating that he found your performance was not substandard regarding the incident. In response, the CG, █ issued you a Report of Substandard Performance on 25 January 2021, stating that he concurred with the former CG, █ and found that there was overwhelming evidence to support the allegation that your performance was substandard. CG, █ directed you to show cause for retention at a BOI. You underwent a BOI on 14 May 2021 and the BOI found that a preponderance of the evidence did not prove the allegation of substandard performance. The Commandant of the Marine Corps closed the case and directed that adverse material regarding the incident to be

included in your Official Military Personnel File (OMPF) via Headquarters United States Marine Corps (HQMC) letter 1920 JPL of 17 September 2021.

Currently, there are 8 pages of adverse material in your OMPF relating to the Report of Substandard Performance. You contend that you did not provide a statement regarding your Report of Substandard Performance because you were erroneously informed by your military defense counsel that the report of BOI would be included with the adverse material to your OMPF. You argue that because you were unable to provide a statement to the Report of Substandard Performance the adverse material, including the HQMC letter dated 17 September 2021, should be removed from your record. The Board carefully considered your request to remove these documents from your OMPF.

The Board noted that upon CG, [REDACTED] Report of Substandard Performance was issued you acknowledged that adverse information pertaining to the incident could be included in your OMPF on 27 July 2020 and that you also acknowledged that you had 10 calendar days to submit a response. You elected to submit a statement on 13 August 2020 stating that you plan to contest the Report at the BOI. The Board further noted that in the 21 May 2021 Report of the BOI you acknowledged that adverse information pertaining to this incident may be included in your OMPF and that you had 10 calendar days from receipt of the BOI report to submit written comments. The Board found that you were properly afforded the opportunity to submit additional written comments for inclusion in your OMPF. Consequently, the Board determined there was insufficient evidence that the inclusion of adverse material and the Report of Substandard Performance 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]

Deputy Director

Signed by: [REDACTED]