



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

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Docket No. 77-22
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 17 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 all documents pertaining to a punitive letter issued on 29 July 2019 and all correspondence discussing your officer misconduct from your official military personnel file (OMPF). You contend the entry was not appropriate for the incident. In support of your contention, you submitted a letter from your previous Battalion Commander requesting removal of an Administrative Remarks (Page 11) entry of 8 October 2019, a memorandum for the record submitted by you on 10 October 2019, your acknowledgement of receipt of the Report of Misconduct (ROM) dated 24 March 2020, and the "final (blank) page from the commendatory/derogatory section and Field/NAVMC 118(11) Admin Section." In his letter, the Commanding Officer (CO) stated he "had no choice but to leverage the minimum requirement and not what [he] deemed appropriate for the incident." Due to the Marine Corps' recent update of MCO 5354.1F on 20 April 2021, which now provides commanders with the authority to adjudicate all infractions as the commander deems appropriate, the CO requested removal because if he'd been authorized to adjudicate the misconduct as he deemed appropriate, he would not have issued the counseling.


The Board noted that after you were counseled on 8 October 2019, a ROM was submitted by Commanding General, 1st Marine Division, recommending you not be required to show cause for

retention in the Marine Corps and that recommendation was echoed in the first endorsement. The Commandant of the Marine Corps (CMC) determined the information provided, while adverse, did not warrant processing for administrative separation and concluded the case should be closed. However, the Board, noting CMC specifically stated the adverse material concerning the matter would be included in your OMPF, determined there was insufficient evidence of an error or injustice in the CMC's determination the adverse material should be retained in your OMPF. Further, the Board determined the counseling entry of 8 October 2019 and the ROM are authorized to be filed in your OMPF and all requirements for including the adverse material in your OMPF have been satisfied. The Board concluded there was insufficient evidence of an error or injustice warranting your requested relief.

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,

3/11/2022


Executive Director
