



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

█  
Docket No. 79-22  
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 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 carefully considered your request to remove an Administrative Remarks (Page 11) counseling entry dated 20 March 2018 from your official military personnel file because you contend you were wrongfully charged with fraternization because the Manual for Courts-Martial does not define a relationship between a staff sergeant and a sergeant from different units as fraternization. You further contend your emails were not prejudicial to good order and discipline nor did they bring discredit upon the armed forces. Additionally, the Board considered your request to remove the fitness report for the reporting period 31 December 2017 to 30 June 2018 because the incident occurred outside the reporting dates.

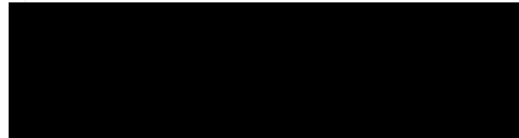
The Board determined the contested counseling entry of 20 March 2018 creates a permanent record of matters the issuing Commanding Officer (CO) deemed an essential part of your military history. The Board noted the counseling entry, which met the requirements detailed in MCO P1070.12K W/CH 1 (IRAM), is a valid counseling entry. Specifically, the Board noted the entry provided the opportunity to rebut the entry and was appropriately issued by the CO as evidenced by his signature on the entry. The Board further noted you did not take the opportunity to rebut the specific comments regarding the fraternization between yourself, a Staff

Noncommissioned Officer, and a Noncommissioned Officer or refute the determination the conduct was to the prejudice of good order and discipline, inappropriate, and fails to meet the high standards expected from a staff sergeant of Marines. The Board thus concluded there is insufficient evidence of material error or injustice warranting the removal of the 20 March 2018 counseling entry. In making this finding, the Board noted that the fitness report for the reporting period 31 December 2017 to 30 June 2018 properly documents you received the 20 March 2018 counseling entry within the reporting period of the report. Accordingly, the Board determined there is insufficient evidence of material error or injustice warranting the removal of the fitness report.

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,

4/7/2022



Executive Director

