



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. 1414-22
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 June 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 also considered the 31 March 2022 advisory opinion (AO) furnished by Headquarters, Marine Corps (JPL) and your 29 April 2022 rebuttal response.

The Board carefully considered your request to remove the Administrative Remarks (Page 11) counseling entry dated 13 July 2018 from your Official Military Personnel File and Service Record Book (SRB). You contend the Page 11 counseling entry should be removed because it is in "direct correlation" with your recently removed fitness report for the reporting period 1 July 2018 to 15 July 2018. The Board also considered the contentions you raise in your response to the JPL AO that the counseling entry is unjust. Specifically, you contend the Commanding Officer (CO) had no evidence, current or historical, of "numerous counseling" to substantiate the alleged substandard performance or any other indirectly implied wrongdoing. You further contend the missed 900-Day Inspection was an isolated, non-malicious incident that, once discovered through routine spot checks, was immediately resolved through appropriate action by the three responsible work centers. Additionally, you contend there is no evidence to substantiate you "having a pattern or even a history of" creating a toxic environment, failing your duties as a Maintenance Admin Chief, or having substandard performance as a Staff Noncommissioned Officer. The Board further considered your contention that the material

within the counseling entry was error and inflated, in an attempt to deceptively substantiate justification for the “loss of faith and confidence.” The Board also considered your contention the presumption of regularity is in question and the decision for such adversity and your removal is “too implausible.” Lastly, the Board considered your contention that, though governed by separate directives, both the counseling entry and fitness report contained identical and, in some respects, unchanged inflammatory, inaccurate, and conjectured material errors.

The Board, however, substantially concurred with the AO. In this regard, the Board noted the two considerations for formal counseling: 1) The information contained in the entry is of a permanent value to the Marine’s career and 2) The information is not, or cannot be, documented elsewhere in the SRB, medical records, or your Marine Corps Total Force System record. The Board determined the contested counseling entry of 13 July 2018 creates a permanent record of matters the issuing CO deemed an essential part of your military history. The Board also determined the entry met the requirements detailed in MCO P1070.12K W/CH 1 (IRAM). Specifically, the Board noted the entry provided the opportunity to rebut the entry, which you exercised, and was appropriately issued by the CO as evidenced by his signature on the entry. With respect to your general contention the counseling entry should be removed because the fitness report was removed, the Board noted the fitness report was removed for procedural error and concluded its removal did not invalidate the counseling entry. The Board further noted your emphasis on the missed inspection being the responsibility of three work centers and determined you were still responsible for your portion of the 900-Day Inspection and, more importantly, responsible for safety. Lastly, the Board determined there was insufficient evidence to overcome the CO’s statement that your leadership had created a hostile working environment. The Board thus substantially concurred with the AO and concluded there was insufficient evidence of a material error or injustice warranting the removal of the 13 July 2018 counseling entry. Accordingly, the Board found insufficient evidence of error or injustice to merit 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,

7/1/2022

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Deputy Director

Signed by: 