



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: 1520-22
Ref: Signature Date



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 10 May 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, as well as the 15 February 2022 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), the 22 October 2021 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-13), and your response to the AO.

The Board carefully considered your request to remove your fitness report for the reporting period 1 July 2019 to 16 December 2019. The Board considered your contentions that your leadership never counseled you or gave you the opportunity to discuss what happened. You claim that you were told that the fitness report would stand because you were the senior Marine. You also claim that during the Integrated Training Exercise (ITX) and Marine Air Ground Task Force Exercise (MWX), you were assigned a new second lieutenant (2ndLt), you worked tirelessly on all operations since the 2ndLt was not experienced, you addressed the issue of consuming alcohol with the platoon when a Marine got out of hand, however, due to the high tempo and need to support the new 2ndLt it was impossible to be around the Marines at all times. You further claim that the 2ndLt assigned disciplinary responsibilities to the small unit leaders and when it was brought to light that Marines were drinking excessively, you were not aware since the small unit leaders never reported this to you. In response to the AO, you claim that the 2ndLt was not held accountable, he was transferred, and promoted. You believe that the chain of

command protected the caucasian officer and made you, the minority enlisted Marine, the fall guy. As evidence, you provided character statements.

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted that the Command Investigation (CI) into the circumstances surrounding the alleged misconduct in your company. The CI noted 27 opinions substantiating violations of the Uniform Code of Military Justice, and the Investigating Officer recommended various punishments for members of your company. The Board also noted that your fitness report was marked adverse for 'Performance' and 'Leading Subordinates'. Your reporting senior's (RS's) justification stated that Marines of your platoon were heavily drinking during ITX in your billeting area and you was completely unaware of this situation; you were not supervising the platoon for long periods of time and failed to supervise frequent trips to the exchange where they purchased the alcohol; members would drink in the motor pool with impunity because you were not present during long periods of time; over two dozen empty bottles of alcohol were found in the immediate area of the motor pool and billeting area; and your failure to lead resulted in multiple Marines receiving legal action. Your reviewing officer (RO) concurred with the RS's assessment, you provided a rebuttal stating that you were not aware of any alcohol consumption or purchase until you were briefed by the company staff, and the Third Officer Sighter adjudicated the factual differences.

The Board determined that the issuance of a page 11 entry is not required to issue an adverse fitness report. The Board also determined that your reporting chain provided sufficient justification to support the performance-based adversity of your fitness report and processed your fitness report according to regulations. The Board found no evidence of discrimination or inappropriate conduct by your chain of command, and you provided none. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

6/2/2022

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Executive Director

Signed by: █