



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. 1839-22
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 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 3 May 2022 advisory opinion (AO) furnished by Headquarters, Marine Corps (JPL). The AO was subsequently provided to you via email on 6 May 2022, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

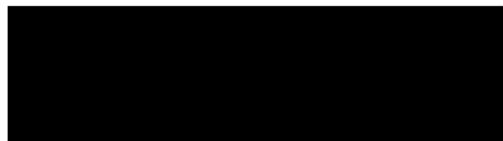
The Board carefully considered your request to remove the Administrative Remarks (Page 11) counseling entry dated 18 November 2019 from your Official Military Personnel File. The Board considered your contention the Page 11 counseling entry should be removed because it references Navy Regulations which specifically address officer and enlisted fraternization. You further contend you (at the time a sergeant) maintained a friendship with a Staff Sergeant who was not in your direct company or chain of command, and the relationship was not prejudicial to good order and discipline. Additionally, you contend it did not call into question a senior's objectivity, result in preferential treatment, undermine the authority of any senior, or compromise the chain of command.

The Board, however, substantially concurred with the AO. In this regard, the Board noted paragraph two of the Navy Regulations Paragraph 1165 specifically states "...personal relationships between officer members or *between enlisted members* [emphasis added]..." The Board further noted the Commanding Officer (CO) is entrusted with maintaining good order and discipline within his unit and his decision to formally counsel you was within his discretion. The Board determined the contested counseling entry of 18 November 2019 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. The Board concluded there was insufficient evidence of a material error or injustice warranting the removal of the counseling entry. Accordingly, given the totality of the circumstances, the Board determined that your request does not 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: 