



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: 2473-22

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 16 August 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 29 June 2022 advisory opinion (AO) furnished by the Headquarters, U.S. Marine Corps Military Personnel Law Branch, and your response to the AO.

The Board carefully considered your request to remove your 6 April 2021 and 1 July 2021 Administrative Remarks (page 11) 6105 counseling entries. The Board considered your contentions that the S-4 leadership contradicted the evidence submitted to the Competency Review Board (CRB), the CRB did not find sufficient evidence to support the recommendation for your reduction in grade, you are being recommended for administrative separation for a pattern of misconduct using the same documents submitted as evidence during the CRB, you were not present at the command from 20 January 2021 to 25 March 2021 and unable to personally ensure proper dispatching, the Article 92, Uniform Code of Military Justice (UCMJ) violation was due to poor communication between your Officer-In-Charge (OIC) and the integrated training exercise (ITX) OIC, the ITX OIC reported that you were not present for your duties and your OIC failed to investigate the claim, and that your 1 July 2021 page 11 entry for failing the Physical Fitness Test (PFT) was due to an injury that occurred during the run portion of the PFT. You further claim to have informed your OIC of the injury upon completion of the PFT, however, you were not informed of the requirement to go to medical. In addition, you claim that the conduct of the PFT and recording of scores were improper.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued page 11 entries counseling you for not producing the appropriate records for the battalion duty van, not suitably coordinating logistics while at ITX in violation of your OIC's order and for failing the three-mile run portion of the PFT. The Board determined that your page 11 entries were written and issued according to the MARCORSEPMAN. Specifically, the entries provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, consequences for failure to take corrective action, and the entries afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer (CO) signed the entries and determined that your substandard performance was a matter forming an essential and permanent part of your military record, as it was his/her right to do.

The Board substantially concurred with the AO that your contested page 11 entries are valid. In this regard, the Board noted the findings of the CRB; however, the board agreed with the AO that the CRB findings do not invalidate your CO's decision to formally counsel you for substandard performance. The Board determined that the purpose of the CRB is to determine technical and professional competence, while formal counseling entries are issued to identify discrepancies in performance or conduct.

Concerning your page 11 entry for failing the PFT, the Board found no evidence that you were injured during the PFT, that your OIC was aware of the injury, or that the PFT scores were improperly recorded. 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 the removal of the page 11 6105 entries. 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,

8/25/2022

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Executive Director
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