



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: 3161-22
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 14 July 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 8 April 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB) (the PERB Decision) and the 23 March 2022 Advisory Opinion provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30) (the AO). The PERB Decision and the AO were provided to you on 8 April 2022. You were given 30 days in which to submit a response but did not do so.

You received two Administrative Remarks counseling entries dated 9 November 2020; one for having an inappropriate relationship with an underage applicant in violation of Article 92 of the Uniform Code of Military Justice (UCMJ) and the second for being relieved for cause as a recruiter due to violating recruiter policy. You signed both Page 11 entries indicating that you did not want to make a statement. You subsequently received an adverse fitness report covering the period 1 August 2020 to 10 December 2020 stating that you were relieved for cause due to the Article 92 violation. On 16 March 2021, you underwent an administrative discharge board (ADB), and the ADB recommended your retention in the United States Marine Corps.

You argue that the Page 11 and adverse fitness report are erroneous because the ADB voted to retain you in the Marine Corps. The Board noted that the ADB found that a violation of Article 92 of the UCMJ occurred but that the violation did not support the specific basis of commission

of a serious offense. The Board also noted that you signed the page 11's and indicated that you did not want to make a statement. The Board further determined that the page 11 6105 was written and issued in accordance with MCO 1070.12K, Marine Corps Individual Records Administration Manual (IRAM). Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, and consequences for failure to take corrective action. Moreover, the entry offered you the opportunity for a rebuttal and was signed by you and the commanding officer (CO). The 6105 created a permanent record of a matter your CO deemed significant enough to document, and as your CO, it was within his authority to issue the counseling entry. The second page 11 correctly documented your relief for cause as a recruiter. Therefore, the Board found no evidence of error or injustice to warrant removal of either page 11 entry.

With regards to the fitness report, the Board concurred with the AO that the ADB recommendation of retention does not invalidate the basis for adversity within the challenged fitness report. The Board noted that the report was adverse due to your relief for cause for violating recruiter policy and, despite recommending your retention, the ADB specifically found that you committed the violation. The Board thus concluded that there is no probable material error or injustice with fitness report to warrant its removal from your record. 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,

7/25/2022



Executive Director

Signed by:

