



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

█
Docket No: 3871-22
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 8 September 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 determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 11 May 2021, the Commanding Officer (CO), Marine Aviation Training Support █
█ ordered a Command Investigation (CI) to examine a report of toxic command climate against you, as you were serving as the Officer-In-Charge (OIC) of the Inbound section of █ Consolidated Personnel Administration Center (CPAC). The complaint also alleged that you did not follow procedures listed under the Prohibited Activities and Conduct (PAC) Order regarding a sexual harassment claim brought by a junior Marine in your unit. On 27 May 2021, the Investigating Officer (IO) released the CI report and concluded that you violated the PAC order in failing to report a sexual harassment allegation. The IO recommended that you receive a negative counseling in accordance with paragraph 3005 of Marine Corps Order 1070.12K, Marine Corps Individual Records Administration Manual (IRAM) for failing to properly train Marines; a recommendation endorsed by CO, █

On 12 July 2021, the Commanding General (CG) Training Command concurred with CO, [REDACTED] that you receive a negative counseling as well as a Report of Substandard Performance. You subsequently received the paragraph 3005 counseling and Report of Substandard Performance on 16 August 2021. You submitted a rebuttal on 24 August 2021 and also requested that the Report of Substandard Performance not be added to your official military personnel file (OMPF). On 16 December 2021, the Commandant of the Marine Corps (CMC) notified you that administrative proceedings were terminated and adverse material, to include the counseling and Report of Substandard Performance, would be included in your OMPF.

The Board carefully considered your request to remove the paragraph 3005 counseling and Report of Substandard Performance from your record. You argue that there was no substantiated evidence that the accusations were valid and provided statements, from a Master Gunnery Sergeant and a Chief Warrant Officer 5, endorsing your performance.

The Board noted that the command investigation's factual findings contained sufficient evidence for your command to conclude that you did not properly train your Marines and that you made your own determination regarding an incident, instead of following the guidelines stated in the PAC order. The Board acknowledged your evidence, but also noted that the CO, [REDACTED], the CG, of Training Command and the CG, of Training and Education Command reviewed the command investigation and concluded that your actions and performance were not in line with what is expected of a Marine Officer and that a counseling and Report of Substandard Performance were warranted.

Finally, the Board noted that the counseling was written and issued in accordance with the 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. In addition, the entry afforded you an opportunity to submit a rebuttal, and your CO signed the entry. Moreover, the entry created a permanent record of a matter your CO deemed significant enough to document. Further, the Board noted that you signed the entry and submitted a rebuttal, which is in your OMPF. Finally, the Board considered that the CMC properly considered your case and made a determination that the adverse material shall be included in your record. The Board found no evidence that this decision was erroneous, unjust, or amounted to an abuse of discretion. The Board thus concluded that there is no probable material error or injustice warranting removal the counseling or any of the adverse matters 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,

9/20/2022

