



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: 5005-22

Ref: Signature Date

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Dear █:

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 26 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 carefully considered your request to remove your 6 January 2021 Administrative Remarks (page 11) 6105 counseling entry and rebuttal statement. You also request to remove or modify your fitness report for the reporting period 1 October 2020 to 8 April 2021 by removing the adverse nature of your report. The Board considered your contentions that the commander that issued the page 11 entry was forced to issue the entry due to restrictions of the Marine Corps Prohibited Activities and Conduct Prevention and Response (PAC) Policy at the time. You claim that the policy was later updated to allow commanders the discretion to use lesser forms of action, and the commander said he would have used informal resolution because it would have been more appropriate. As evidence, the commander and reporting senior (RS) have furnished letters to remove the page 11 entry and to have the derogatory marks removed from the fitness report.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a page 11 entry counseling you for failure to obey order or regulation by bullying and harassing Marines by making inappropriate, crude, and demeaning comments about them aloud and to them directly. The Board also noted that you

acknowledged the entry, and elected to submit a statement. The Board determined that your contested page 11 entry was issued and written according to the MARCORSEPMAN. Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer (CO) signed the entry and determined that your misconduct was a matter forming an essential and permanent part of your military record, as it was his/her right to do.

Concerning the correspondence you furnished as evidence. The Board noted that the correspondence does not contain signatures, consequently, the Board determined that your evidence was insufficient to support relief. Regardless, the Board also determined that your page 11 entry was properly issued in accordance with the PAC Policy at that time and, therefore, considered valid as written. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice with the page 11 entry or associated rebuttal. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding your request to remove or modify your fitness report for the reporting period 1 October 2020 to 8 April 2021, the Board determined that you have not exhausted your administrative remedies. The Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals, therefore, you must submit your request to the PERB according to the Marine Corps Performance Evaluation Appeals Manual.

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,

7/29/2022

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Deputy Director

Signed by: █