



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

██████████
Docket No. 5161-22
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 applications on 30 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 applications, 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.

The Board carefully considered your request to remove your 20 August 2021 Administrative Remarks (Page 11) 6105 counseling entry concerning your Relief for Cause (RFC) from the Marine Security Guard Program. The Board noted that you received the Page 11 for misconduct, specifically your inappropriate comments and messages to your subordinates in your detachment. The Board considered your contentions that the Page 11 was signed acting, misidentified you as a watchstander vice Detachment Commander, removal of the Page 11 would allow you to submit for remedial promotion consideration, and the same Commanding Officer (CO) that issued the RFC requested the delivery of your promotion. Finally, the Board considered your claim that your 14-year career has been noteworthy, you have had no previous disciplinary action, and that in an attempt to better yourself you submitted for interservice transfer that was denied due to not being in the best interest of the Marine Corps.

However, the Board concluded the page 11 is valid as written. The Board noted that it is the Commanding Officer's discretion whether or not to issue a counseling to address misconduct. Additionally, a counseling is given a presumption of regularity which requires the Petitioner to provide substantial evidence that the commander's decision was unjust or was materially in error. The Board noted you did not provide any evidence, other than your assertions, to rebut the validity of the counseling. The board further noted that the issuing officer was well within his discretionary authority to issue the counseling entry. The Board also noted that in accordance with the IRAM, "the commander, the acting commander (in the commanders absence), or a commissioned officer, warrant officer, or SNCO designated in writing is authorized to authenticate Page 11 counseling entries."

In regards to your contention that the Page 11 improperly identified you as a watchstander vice Detachment Commander, the board determined that, if an error exists, it was a scrivener's error and that it was not material as it made no difference to the material fact considered in your case.

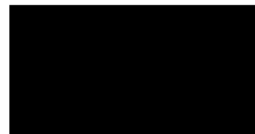
Regarding your assertion that the same CO who relieved you of your duties subsequently recommended you for delivery of your promotion, the Board noted that, in accordance with the MARCORPROMAN, the Commandant of the Marine Corps is the authority act to deliver, deny, or revoke your appointment and that after consideration of the recommendations of your chain of command. After reviewing your record, he recommended that your FY 2021 selection to Gunnery Sergeant be revoked. Therefore, the Board was not persuaded by your contentions regarding your CO.

Finally, in regards to your claim that your 14-year career has otherwise been noteworthy, the Board determined that your prior performance does not excuse the actions that warranted your relief for cause and formed the basis for the page 11. The Board thus concluded that the Page 11 entry does not constitute probable material error or injustice and shall remain in 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

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director

A black rectangular redaction box covering the contact information of the Executive Director.