



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

█  
Docket No: 5336-22

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 2 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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 17 March 2022 Administrative Remarks (page 11) 6105 counseling entry and rebuttal statement. You also request to remove your fitness report for the reporting period 30 September 2021 to 31 March 2022. The Board considered your contentions that the page 11 entry does not meet the specifications for violating Article 134, Uniform Code of Military Justice (UCMJ) and your fitness report was rendered adverse based upon the page 11 entry. The Board also considered your assertion that the page 11 entry and adverse fitness report will have a negative impact on the longevity of your career.

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 behaving in a drunken and disorderly manner aboard █ and for being detained by the Provost

Marshal's Office. The Board also noted that you acknowledged the entry, and you elected to submit a statement. The Board determined that your contested page 11 entry was written and issued 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 your contention that your behavior did not meet the specifications for violating Article 134, UCMJ. The Board noted the elements for Article 134, UCMJ, the statement furnished by your spouse, and the Incident Determination Committee finding. The Board, however, determined that your evidence was insufficient to overcome the presumption of regularity. 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. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting the removal of the page 11 entry. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Concerning your request to remove your fitness report for the reporting period 30 September 2021 to 31 March 2022, 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,

8/16/2022

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Executive Director  
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