



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. 5681-22
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 11 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.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to this Board requesting the removal of an Administrative Remarks (Page 11) counseling entry dated 7 June 2019 from your official military personnel file. Your request was denied on 26 May 2022.

The Board carefully reconsidered your request to remove the Administrative Remarks (Page 11) counseling entry dated 7 June 2019 from your official military personnel file. You again contend the language regarding the "48 moving violations" is unsupported because you did not receive any citations during that timeframe. The Board also considered your previous contentions since you noted your submission provided "all the paperwork [the Board] already [has] from the 17 November 2021" request for relief. You contend the Page 11 counseling was issued for "crashing government vehicles multiple times due to lack of sleep on recruiting duty." You specifically contend the Page 11 was not written in accordance with the applicable Marine Corps Order for "Non-Tactical Vehicle and Equipment Management Manual" because you had never

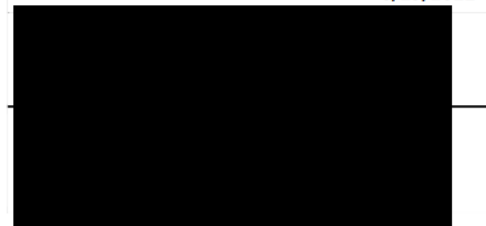
received any “actual” citations and you did not commit 48 moving violations. The Board also considered your contention the counseling was not properly explained to you when it was issued so you did not submit a rebuttal statement. Further, you contend the Page 11 counseling entry has affected your consideration by two promotion boards even though you do not have any other “negative paperwork or actions” in your 12 years of service and have “outperformed” other individuals. Additionally, the Board considered your new evidence, the endorsement letter from the Commanding Officer (CO) that issued the contested Page 11 entry.

The Board reiterated its earlier determination the contested counseling entry of 7 June 2019 creates a permanent record of matters the issuing CO deemed an essential part of your military history. The Board again noted the counseling entry, which met the requirements detailed in MCO P1070.12K W/CH 1 (IRAM), is a valid counseling entry. Specifically, the Board noted the entry provided the opportunity to rebut the entry and was appropriately issued by the CO as evidenced by his signature on the entry. The Board thoroughly reviewed the documents submitted in support of your contentions but concluded the evidence was insufficient to establish that the entry was not written in accordance with the governing manual or that its contended improper explanation influenced you to refuse the option to submit a rebuttal statement. Additionally, the Board noted the CO’s endorsement letter supports removal because the “counseling has served its administrative purpose” but does not state the numerous events did not warrant counseling. The Board specifically noted the CO patiently gave you ample time to correct your driving deficiencies as reflected by the fact your first accident was on 28 September 2017 and the Page 11 was issued shortly after your fourth accident on 23 May 2019. Further, the Board noted the CO was not required to cite any evidence regarding the 48 moving violations and concluded there is insufficient evidence, even considering the CO’s endorsement, that your driving record did not contain an additional 48 moving violations. Ultimately, the Board determined the CO’s rationale for requesting the Page 11 entry be removed is insufficient to establish an error or injustice warranting removal. The Board again concluded there is insufficient evidence of material error or injustice warranting the removal of the 7 June 2019 counseling entry 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,

8/29/2022

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