



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

██████████
Docket No. 6982-22
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 15 November 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, as well as the 2 September 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 26 May 2022 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the AO were provided to you on 2 September 2022, and although you were given 30 days in which to submit a response, you chose not to do so.

The Board carefully considered your request to remove your 6 April 2021 Administrative Remarks (Page 11) 6105 counseling entry and Fitness Report (Fitrep) for the reporting period 1 January 2021 to 30 November 2021. The Board considered your contention that while on recruiting duty, you were under investigation for adultery and an inappropriate relationship with an applicant, however, during your administrative separation board, you were found "not guilty" for violating Article 134, Uniform Code of Military Justice because you were legally separated from your wife. You assert that you provided proof that the individual was not an applicant for the Marine Corps and had been permanently disqualified as an Army applicant prior to your tour as a recruiter. You also assert the adverse material in your official military personnel file (OMPF) is preventing a fair opportunity for promotion or reenlistment.

The Board noted that a previous panel of this Board (BCNR Docket No. 910-22) recommended correction of your naval record by redacting paragraph 4 of the entry in accordance with the

Marine Corps Individual Records Administration Manual (MCO P1070.12K w/Ch 1). Specifically, to remove the following: "I understand that I am being processed for the following judicial or adverse administration action: Administrative separation, per paragraph 6105.6 and 6210 of MCO 1900.16F due to a commission of a serious offense and misconduct."

With regard to your request to remove the redacted counseling entry, the Board determined that after a thorough review of your application, there is no new evidence to consider. The Board thus concluded that your request constitutes a resubmission of previously considered contentions and evidence, and therefore, there is no probable material error, substantive inaccuracy, or injustice warranting removal of the contested counseling entry from your OMPF.

Additionally, the Board substantially concurred with the AO and the PERB decision that, in accordance with the Performance Evaluation System (PES) Manual, the contested Fitrep was procedurally correct as written and filed. In this regard, the Board noted that the evidence you provided does not demonstrate an error or injustice warranting removal of the Fitrep. The Board noted that the adverse nature of the Fitrep stemmed from a substantiated command investigation. The Board also determined that based on PES Manual guidance, your request lacks merit and your contentions do not render the Fitrep invalid. The Board thus concluded that your request is lacking in sufficient evidence of probable material error, substantive inaccuracy, or injustice warranting removal of the fitness report from your OMPF.

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,

12/15/2022

