



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

██████████
Docket No. 7404-22
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 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 applications, 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 24 March 2021 Administrative Remarks (Page 11) counseling entry, and the 30 March 2021 associated rebuttal from your official military personnel file (OMPF). The Board considered your contentions that the counseling was given after the 21 November 2020 to 23 March 2021 reporting period of your contested Fitness Report (Fitrep).

By signing the counseling entry, your commanding officer indicated that he believed it to be appropriate based on your substandard performance and subsequent relief of your duties as the Company Gunnery Sergeant, for not accomplishing the requirements of your assigned billet, using a preponderance of the evidence standard. The Board thus determined that the issuing officer was well within his discretionary authority to issue the counseling entry, and that the entry met the counseling requirements pursuant to the IRAM and the Marine Corps Separations and Retirement Manual. You were afforded the opportunity to rebut the counseling, and your rebuttal statement is filed in your OMPF.

The Board noted that a counseling entry is given presumption of regularity which requires you to provide sufficient evidence that the commander's decision was unjust or was material in error.

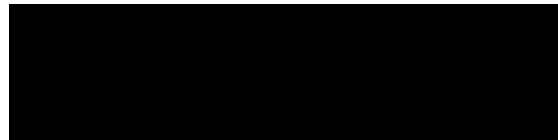
The Board determined that you did not provide sufficient evidence to rebut this presumption of regularity. The Board considered your contention, however, determined that it lacks merit and does not invalidate the counseling entry. The Board thus concluded that the counseling entry does not constitute probable material error, substantive inaccuracy, or injustice warranting removal from your OMPF.

With regards to the removal of your Fitrep for the reporting period 21 November 2020 to 23 March 2021, the Board noted that pursuant to the Performance Evaluation System (PES) Manual, Marines must initially submit their request to the Manpower Management Division Records and Performance Branch (MMRP-30) and not directly to the Board for corrective action. The Board thus concluded that you did not exhaust all administrative remedies pursuant to PES Manual guidance, and noted that you must first submit your request to MMRP-30 for consideration.

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

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Deputy Director

Signed by: 