



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 100
ARLINGTON, VA 22204-2490

██████████
Docket No. 8040-22
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 10 January 2023. 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 9 June 2022 Administrative Remarks (Page 11) counseling entry. The Board considered your contentions that the RE-3O reenlistment code was given to you after you made your intentions known that you would not reenlist and you were issued orders subsequent to that. You provided e-mail correspondence between yourself and the Senior Enlisted Advisor in support of your contentions.

The Board noted that you received the counseling due to your refusal to extend or reenlist to comply with the orders received. The Board further noted the e-mail correspondence you submitted and determined that you were fully aware that you would receive the RE-3O reenlistment code based on your intention to refuse order and not reenlist.

The Board also determined that the issuing officer was well within his discretionary authority to issue the counseling entry, and that the entry was procedurally correct as it met the counseling requirements contained in the Marine Corps Administration Manual (MCO P1070.12K) and the Marine Corps Personnel Assignment Policy (MCO 1300.8 CH1). Specifically, the Board noted that the entry provided written notification concerning career enlisted Marines in receipt of permanent change of station orders issued by the Commandant of the Marine Corps (CMC), who do not have sufficient obligated service to complete the prescribed tour, will be immediately afforded the opportunity to extend or reenlist in order to have the required active service.

Furthermore, when the Marine states that he or she does not desire to extend or reenlist, the CMC (MMEA) will be promptly notified and a service record entry made. Additionally, only the CMC (MMEA/RAM) may remove the RE-3O code, and if the RE-3O code is subsequently removed, the counseling entry will remain a permanent part of the Marine's record. Although you were afforded the opportunity to submit a written statement in response to the entry, you chose not to. The Board thus concluded that the counseling entry does not constitute probable material error, substantive inaccuracy or injustice warranting its removal from your official military personnel file.

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,

2/6/2023

