



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

██████████
Docket No. 8242-22
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your applications on 12 December 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 noted on 2 October 2017 you were issued Administrative Remarks (Page 11) 6105 counseling entry for violation of Article 92 of the Uniform Code of Military Justice for failure to obey an order or regulation. You were also counseled for being derelict in the performance of your duties for failure to properly supervise and provide guidance to the Assistant KMI Manager, which led to the improper issuing of key material and a communications security incident. You signed the counseling and submitted a rebuttal on 6 October 2017. Consequently, you were issued an adverse fitness report for the reporting period 1 May 2017 to 18 October 2017.

The Board carefully considered your request to remove your and associated rebuttal. The Board, however, did not consider your request to remove your adverse fitness report because you did not first exhaust the available administrative remedy—petitioning the Marine Corps Performance Evaluation Review Board (PERB)—before petitioning the Board. Nevertheless, the Board considered your contentions that you were advised the fitness report was not in line with Department of Defense (DoD) Policy, you were off deck when the keying material in question occurred, as well as all other contentions raised in support of removal of the contested fitness

report. The Board also considered your claim that the derogatory material in your record has been detrimental to your career and reputation.

The Board determined that the detrimental affect the counseling is having on your career and reputation does not invalidate the counseling. The Board also determined that the issuing officer was well within his discretionary authority to issue the counseling entry, and that the entry met the 6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN). Specifically, the counseling provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You were afforded the opportunity to rebut the counseling, and your rebuttal is filed in your official military personnel file. The Board thus concluded that the counseling entry does not constitute probable material error or injustice warranting removal from your record.

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,

1/5/2023

