



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

█
Docket No: 8332-22
Ref: Signature Date

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Dear █

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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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 Report of Misconduct (ROM), Report of Board of Inquiry (BOI), and associated derogatory material. Alternatively, you request to redact any reference to the allegations for Uniform Code of Military Justice (UCMJ) Articles 86 and 113. The Board considered your contention that the injustice claimed in your appeal is evident in the advisory opinion (AO) even though the primary reason for the requested correction was the inclusion of unsubstantiated facts causing an injustice. You also contend that while the Show Cause Authority did in fact direct that the "adverse material" be included in your Official Military Personnel File (OMPF), the layout of all the material likely causes professionals to misunderstand exactly which Articles of the UCMJ were found to be violated, even under scrutiny. You claim that it is doubtful that this was Deputy Commandant, Manpower and

Reserve Affairs' (DC, M&RA) intention. It is your assertion that when your OMPF is read, it is likely that the material will be unfairly assessed, even when scrutinized.

The Board noted that the BOI unanimously found that the preponderance of evidence substantiated the allegations of substandard performance and misconduct, in part. Specifically, the evidence provided supported violations of UCMJ, Article 90, Article 112, and Article 133 and did not substantiate violations of Article 86 and Article 113. The Board determined that the BOI was convened solely to determine your suitability for continued service on active duty, the fact that the BOI did not substantiate all of the allegations is not a basis to remove or to redact your derogatory material. Contrary to your contention that your unauthorized absence and drunken operation of a vehicle was unsubstantiated, the Board noted that Commanding General (CG), Marine Corps Air Ground Task Force training Command, Marine Corps Air ground Combat Center did substantiate your unauthorized absence and drunken operation of a vehicle and duly documented the full scope of your misconduct in the ROM. The Board also noted that before the adverse material was included in your OMPF, the totality of the evidence and the adverse material was carefully reviewed by the Staff Judge Advocate (SJA) for the CG, SJA for the Commandant of the Marine Corps, and DC, M&RA. Contrary to your argument, the Board found no evidence of DC, M&RA's intent not to include the totality of your adverse material in your record, and you provided none. The Board also determined that your misconduct is a matter of record and it does not create an error or injustice based on your assumption that individuals may be confused by the derogatory material and reach differing conclusions after reviewing it. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the derogatory material 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,

12/16/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]