



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

█
Docket No. 8948-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your reconsideration request 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 13 April 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 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 29 November 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 25 July 2022 Advisory Opinion (AO) provided to PERB by the Manpower Management Division Records and Performance Branch. The PERB Decision and the AO were provided to you on 29 November 2022. Although you were provided an opportunity to respond to the AO, you chose not to do so.

In April 2021, you were assigned as the Sergeant Major of █
█ In June 2021, a command investigation (CI) was conducted after allegations of recruiter malpractice at █ surfaced. The CI found that members of RS CLB fraudulently enlisted applicants and that the Recruiter Instructor called a meeting in order to dissuade others from asking or reporting the fraudulent enlistment. The Investigating Officer (IO) recommended you receive a formal counseling due to lack of leadership of the enlisted personnel. The IO opined that you did not commit the fraudulent enlistment; however, in the IO's opinion you failed to display leadership in the situation, as your subordinates did not feel comfortable in approaching you to discuss suspicious activities.

On 7 September 2021, you received an Administrative Remarks (Page 11) 6105 counseling entry which documented your relief from your duties as the Sergeant Major. You subsequently received an adverse fitness report covering the period 1 October 2020 to 7 September 2021

noting “[a]lthough not involved in the fraudulent enlistment process, as the Sergeant Major, [you] had a duty to ensure a positive command climate that did not condone an environment of making mission at all costs.”

You previously petitioned the Board (Docket No. 8017-21) to remove the 6105 counseling and adverse fitness report, and were denied relief on 12 April 2021.

The Board carefully considered your reconsideration request to remove the 6105 counseling and the adverse fitness report. You argue that the 6105 is unjust because you were not responsible for the recruiter malpractice and committed no misconduct. You further contend that the CI was erroneous regarding the leadership you provided to your Marines during the time period. As new evidence for the reconsideration, you included supporting statements from the former Commanding Officer, Executive Officer, and Operations Officer at [REDACTED]. The supporting statements assert that the fraudulent enlistment of applicants was not due to you, but a result of the climate created by the 4th Marine Corps District and the Eastern Recruiting Region (ERR).

The Board, however, concurred with the AO that the underlying basis of the fitness report’s adversity was lack of leadership and mentoring of Marines in your unit. The Board found that your relief was not due to a failure to supervise recruiting operations, nor were you specifically relieved due to fostering a bad command climate. Instead, the fitness report stated that you were relieved due to a loss of trust and confidence in your ability to lead, mentor, and advocate for the enlisted Marines of [REDACTED]. The directed comment specifically noted that you did not properly engage in matters related to morale and welfare of the Marines by displaying sufficient leadership traits that would enable the Marines to approach [you] to discuss suspicious and/or illegal activities.” The Board took into account the officers’ statements in support of your performance, but the Board also noted that the IO, Commanding Officer, and the Commanding General of Marine Corps Recruiting Command/ERR found that your leadership was lacking during the fitness report time-period. The Board thus affirmed the prior Board’s decision and determined that there is insufficient evidence to warrant removal of the adverse fitness report.

Moreover, the Board determined that the 6105 entry was written and issued in accordance with Marine Corps Order P1070.12K, Marine Corps Individual Records Administration Manual (IRAM). Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, and consequences for failure to take corrective action. Further, the entry created a permanent record of a matter your Commanding Officer deemed significant enough to document. Consequently, the Board determined that the 6105 counseling contains no material error or injustice warranting corrective action and shall remain in your official military personnel file. 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, _____

5/4/2023

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Executive Director

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