



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

██████████
Docket No. 57-23
Ref: Signature Date

██
██
██

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 application on 7 February 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 carefully considered your request to remove your 4 January 2021 Administrative Remarks (page 11) 6015 counseling entry, alternatively, you request to remove any mention of being "disenrolled from Basic Recruiter School." You also request to be award the Navy and Marine Corps Commendation Medal for the period 15 October 2018 to 9 October 2020. The Board considered your contentions that an investigation found that the allegation of sexual harassment was unsubstantiated, the punishment you received seemed too excessive, and the counseling entry paints you in a negative light, which was done to affect your career, both now and hereafter. You believe the award was rescinded once your command received the final report of investigation, and since the results of the investigation were pending, your actions in the office did not falter and degrade, therefore, the command found you deserving of the award. You also believe that you are once more being held accountable for the matter at a different command and you were not given the opportunity for corrective action. As a result of the investigation, your warrant officer appointment was delayed, and you had no choice but to decline since it was clear that it was not the Commanding Officer's (CO) intention to send you to the Warrant Officer Basic Course.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a 6105 entry counseling you for irresponsible

actions. Specifically, sending and receiving explicit messages via electronic communication to and from a junior Marine, which led to a complaint of sexual harassment. The entry also notified you of your disenrollment from Basic Recruiters School. The Board also noted that you acknowledged the entry and elected *not* to submit a statement. The Board determined that the contested entry was written and issued according to the MARCORSEPMAN. Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal. Moreover, your CO signed the entry, and he/she determined that your substandard performance/misconduct was a matter essential to record, as it was his/her right to do.

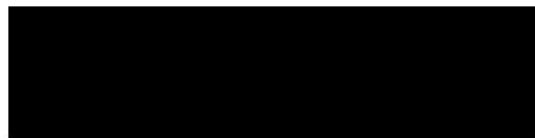
The Board noted that according to your counseling entry, the allegation of sexual harassment was unsubstantiated, however, the Board determined that your CO was best situated to determine the extent of your misconduct, based upon the findings of a formal command investigation. The Board determined that your CO acted properly and within his discretionary authority when determining that your misconduct warranted the counseling entry, as well as disenrollment from the Basic Recruiter School. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption.

Concerning your request to be awarded the Navy and Marine Corps Commendation Medal, the Board noted that according to the Navy and Marine Corps Awards Manual, personal military decorations are discretionary. In addition, pursuant to 10 U.S.C. section 8299, no personal military decorations may be presented to any individual whose service after the distinguishing act or period has not been honorable. The Board determined that the award approving authority was authorized to determine that due to your misconduct, the Navy and Marine Corps Commendation Medal was no longer warranted. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy or injustice warranting corrective action.

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,

3/1/2023

A large black rectangular redaction box covering the signature of the Deputy Director.

Deputy Director

A black rectangular redaction box covering the name of the Deputy Director.