



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

█
Docket No. 254-23
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 7 March 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.

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 the 25 April 2022 Administrative Remarks (page 11) entry, associated rebuttal statement, and the Report of Substandard Performance of Duty. The Board considered your statement that a complaint was launched after it was reported by an enlisted member that you and a female officer had engaged in a public display of affection, specifically kissing. The investigation yielded negative results and the accuser was advised of his rights for providing a false official statement. You contend that despite the investigation yielding negative results of any inappropriate relationship and the initial charges being dismissed for lack of factual evidence, a page 11 entry and Report of Substandard Performance for allowing rumors to form was issued used in lieu of disciplinary action and to make a factually weak or difficult case stick. You also contend that the punishment corresponds with a guilty verdict. The only evidence provided to support the page 11 entry was a signed

statement that you were instructed to make by your parent command and staff judge advocate under threat of separation as a probationary officer with less than six years of service, if you refused. You claim that the page 11 entry does not meet Marine Corps Performance Evaluation System Manual requirements for derogatory material. You also claim that the Marine Corps Legal Administration Manual (LEGADMINMAN) states that all punitive punishment should be equal to or correspond with the alleged offense.

The Board noted the 26 February 2022, █
█ The Board also noted that upon completion of the investigation, your case was forwarded to the █ legal department for prosecutorial determination. The Board found no evidence of a final determination by the Investigating Officers. The Board also found no evidence that you were forced to make a statement, and you provided none.

The Board noted that pursuant to paragraph 3005 of the Marine Corps Individual Records Administration Manual (IRAM) you were issued a page 11 entry counseling you for demonstrating a lack of proper decorum and engaging in repeated unduly familiar behaviors, while married, with a female officer not your wife while █ The Board also noted that you acknowledged the entry and, in your statement, accepted responsibility for your poor judgement and acknowledged your duty as an officer. The Board determined that the contested entry was written and issued according to the IRAM. Specifically, the entry provided written notification concerning your deficiencies, and afforded you the opportunity to submit a rebuttal. Moreover, the Commanding General, █ signed the entry, and determined that your substandard performance was a matter essential to record, as it was his right to do.

The Board determined that the Report of Substandard Performance was properly prepared and submitted according to the LEGADMINMAN. The Board noted that the CG found that you performed below the required standards of conduct when you demonstrated a lack of proper decorum and disregarded guidance by your chain of command. As a result, you were relieved for cause due to a lack of trust and confidence and you were returned from deployment prematurely. When issuing your page 11 entry and Report of Substandard Performance, the Board also determined that the CG, █ based his decision on a preponderance of the evidence and your conduct by disregarding guidance when you were photographed on the beach with the other officer. Moreover, the CG was not required to impose non-judicial punishment. According to the LEGADMINMAN, a page 11 entry is an authorized administrative action when the first General Court-Martial Convening Authority determines that misconduct or substandard performance occurred. The Board concluded that your page 11 entry and the Report of Substandard Performance were appropriately issued and included in your official record. The Board found there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

3/23/2023

