



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

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Docket No. 769-23  
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.

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 application, 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 fitness report for the reporting period 1 July 2021 to 27 August 2021, the 27 August 2021 Administrative Remarks (page 11) 6105 counseling entry and associated rebuttal statement. The Board considered your statement and contention that the fitness report and counseling entry were issued for being the passenger in a vehicle driven by the First Sergeant who was arrested for driving under the influence (DUI). You assert that the chain of command is requesting that the fitness report and counseling entry be removed. As evidence, you provided correspondence from your chain of command.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a 6105 counseling entry you as a senior enlisted leader for the company for failing to use proper judgment, responsibility, and maintaining a high level of personal and professional conduct, which has resulted in the loss of trust and confidence in your abilities to lead Marines as the Company Gunnery Sergeant (GySgt). The entry also noted that you failed to execute a sound liberty plan prior to consuming alcohol which resulted in the arrest of another Marine for DUI and the Commanding Officer (CO) relieved you of your duties and responsibilities as the Company GySgt. The Board also noted that you acknowledged

the entry and in your statement, you took responsibility for your poor judgment. You admit to being irresponsible and became impaired to the point that you made a decision that you would not have made by entering a vehicle that was driven by a person under the influence. 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, it afforded you the opportunity to submit a rebuttal, and your CO signed the entry. The Board also determined that your CO relied upon sufficient evidence when determining that your substandard performance/misconduct and relief of duties were matters essential to record.

The Board substantially concurred with the previous AO by MMRP-30 dated 30 August 2022 and the Performance Evaluation Review Board (PERB) decision dated 23 September 2022 that your fitness report is valid as written and filed. In this regard, the Board noted that the Marine Corps Performance Evaluation System (PES) Manual does not include a provision for “retroactive removal” of adverse fitness reports based on subsequent performance and conduct and/or perceived limitations of future competitiveness. The Board also noted that according to the reviewing officer (RO)/CO comments, you “lost the trust and confidence placed in him by the command as I could not see a scenario where he could stand in front of the Marines of Alpha Company as the Company Gunnery Sergeant and hold any credibility with them.” The Board determined that your chain of command provided substantive justification for the basis of their loss of trust and confidence, your relief as the Company GySgt, the counseling entry, and adverse fitness report. In consideration of the totality of your evidence, the Board found your chain of command’s correspondence unpersuasive and insufficient to warrant the removal of your counseling entry and fitness report. 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,

2/17/2023

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Deputy Director  
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