



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

█
Docket No. 1603-23
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 applications on 28 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

The Board determined that your personal appearance, with or without counsel, would 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 25 January 2023 Administrative Remarks (Page 11) counseling entry from your official military personnel file (OMPF). The Board considered your contentions that it was unjust and used to circumvent the legal process in order to fit a predetermined determination of guilt. The Board also considered your contention that it was not written in accordance with MCO 1900.16 as well as your claim that the rebuttal was altered by the removal of your digital signature.

The Board noted that pursuant to Marine Corps Individual Records Administration Manual (IRAM), you were counseled for violating Article 134 of the Uniform Code of Military Justice, for wrongfully engaging in extramarital affairs on or about 4 March 2022. You acknowledged (signed) the entry and chose to submit a written rebuttal, which is also in your OMPF.

The Board noted that the contested entry was written and issued in accordance with the IRAM. Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, and where to seek assistance. The entry afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer signed the entry, indicating he determined that your misconduct was a matter essential to record, as it was his right to do. The Board thus determined that the CO acted within his discretionary authority when deciding that your counseling entry was warranted.

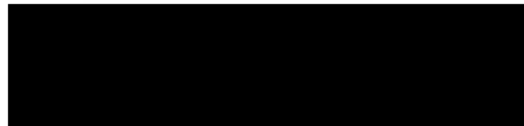
Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption.

In regards to your contention that your rebuttal was altered by the removal of your digital signature, the Board determined that you provided no evidence that the rebuttal was intentionally removed by the command. The Board noted that this is an administrative correction and you may contact Headquarters, Marine Corps (MMRP-20) via e-mail smb.manpower.mmrp@usmc.mil to have the signed rebuttal statement uploaded to your OMPF.

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,

4/19/2023

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

Deputy Director

A black rectangular redaction box covering the contact information of the Deputy Director.