



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. 1927-23
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 21 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 17 June 2021 and 17 August 2021 Administrative Remarks 6105 (page 11) entries. You also request remedial consideration for promotion to Staff Sergeant (SSgt/E-6). The Board considered your contention that you were not selected for promotion to SSgt, you were told that all derogatory documents would be expunged from your record, and should not affect your future service. You believe the negative documents caused you to fail selection for promotion. You claim that previous fitness reports indicate that you were more than competent in your military occupational specialty and you were one of the few exceptionally qualified Marines.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a 6105 entry on 17 June 2021 counseling you for engaging in an inappropriate relationship with a member of the Delayed Entry Program

(DEP). Then on 17 August 2021 you were issued a 6105 entry counseling you for engaging in an unprofessional personal relationship with a member of the DEP. The Board also noted that you acknowledged the entries and elected not to make a statement. The Board determined that the contested entries were written and issued according to the MARCORSEPMAN. Specifically, the entries provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and the entries afforded you the opportunity to submit a rebuttal. Moreover, your Commanding Officer (CO) signed the entries, and he/she determined that your misconduct was a matter essential to record, as it was his/her right to do.

The Board noted that your administrative separation (ADSEP) board found that the preponderance of evidence did not prove the acts or omissions alleged and recommended your retention. The Board, however, determined that an ADSEP board is administrative in nature with the fundamental purpose of determining your suitability to serve on the basis of your conduct and the ability to meet and maintain the required standards of performance. The ADSEP process is not intended as, nor does it function as a method to overturn or invalidate other Marine Corps administrative actions. The Board also determined that the findings during your ADSEP proceedings have no bearing on your CO's authority to issue your page 11 entries. Moreover, the fact that your CO and the ADSEP board arrive at different findings is not a material error or injustice. The Board thus concluded that 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.

Concerning your request for an Enlisted Remedial Selection Board (ERSB), the Board determined that you have not exhausted your administrative remedies. You must submit your request for an ERSB to the Manpower Management Promotions Branch (MMPR-2) according to the Marine Corps Promotion Manual.

You also indicated in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034.

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,

3/31/2023

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Deputy Director

Signed by: █