



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

██████████
Docket No. 2865-23
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 25 April 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 29 June 2021 Administrative Remarks 6105 (page 11) counseling entry and associated rebuttal statement. The Board considered your contention that the imposed punishment was unjustly severe as well as your contention that you received a harsher punishment than any other member of the Platoon.

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 Violation of Article 92, Failure to Obey an Order or Regulation. Specifically, while assigned as an Experienced Drill Instructor for Platoon 4018, Series 4018, Company O, Fourth Recruit Training Battalion, a Command Investigation substantiated that you were culpable for multiple violations of Depot Order 1513.6G and the Recruit Training Regiment's Regimental Bulletin 1700.2. The Board also noted that you acknowledged the counseling entry and in your statement, you claim that you were not guilty of the Recruit Training Order violations described in the counseling entry. However, the Board determined that the contested counseling entry was written and issued according to the MARCORSEPMAN. Specifically, the counseling 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 commanding officer (CO) signed the counseling 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, thus determined that the CO relied upon sufficient evidence and acted within his/her discretionary authority when deciding that your counseling entry was warranted.

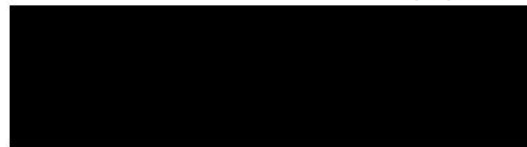
In regards to your contention that you received harsher punishment than any other member of the Platoon, the Board determined this to be conjecture. The Board noted that it is the CO's right to impose the punishment or document misconduct as he or she sees fit. In this regard, the Board noted that the CO directed a Command Investigation into allegations of misconduct and concurred with the findings, opinions, and recommendations by the Investigating Officer. Furthermore, the Board noted that the punishment imposed against others does not, per se, make the CO's decision to issue written counseling to you an abuse of discretion.

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. The Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the counseling entry or associated rebuttal from your record. 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,

5/12/2023



Deputy Director

