



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

█  
Docket No. 3139-23  
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 16 May 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 Administrative Remarks (Page 11) 6105 counseling entry dated 31 January 2022 and associated rebuttal dated 4 February 2022. The Board considered your contentions that you were investigated for alleged violations of MCO 5354.1F (Prohibited Activities and Conduct) but, the allegations were found to be unsubstantiated. The investigating officer recommended no disciplinary action or further investigation; however, you received a Page 11 counseling for fostering a negative leadership climate. You believe the investigation did not delve deeply enough to accurately characterize the overall leadership environment that you fostered and the investigation was erroneously based on an incomplete picture. You further believe the negative counseling has affected your selection for assignment. In support of your contentions, you provided a personal statement, the "redacted" command investigation, previous fitness reports, letters of recommendations, and awards for consideration.

The Board, however, determined that by signing the Page 11, your commanding officer (CO) indicated that he believed it to be appropriate based on the facts and circumstances, and using a preponderance of the evidence standard. The Board thus determined that the issuing officer was well within his discretionary authority to issue the counseling entry at the time, and that the entry met the counseling requirements in accordance with the Marine Corps Individual Records

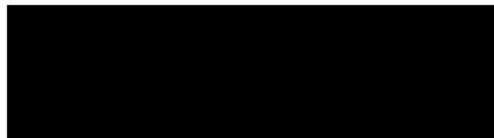
Administration Manual and Marine Corps Separation and Retirement Manual. Specifically, the Board noted that the entry provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You rebutted the counseling and the Board took your statement into consideration.

The Board noted that a Page 11 is given a presumption of regularity which requires you to provide sufficient evidence that the CO's decision was unjust or was materially in error. The Board determined that you provided insufficient evidence to rebut this presumption of regularity. In this regard, the Board took into consideration your contentions, as well as the documents you provided; however, determined that the Page 11 was warranted based on a command investigation that determined you fostered a negative leadership climate, despite unsubstantiated allegations of PAC violations, and that your CO reasonable relied on the command investigation when issuing the counseling entry. As such, the Board concluded that the Page 11 entry and your rebuttal, do not constitute probable material error, substantive inaccuracy or injustice warranting removal from your official military personnel file. 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,

6/2/2023

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Executive Director

Signed by:

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