



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

██████████
Docket No. 3223-23
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 2 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 1 May 2021 Administrative Remarks (Page 11) counseling entry. The Board considered your contention that the RE-30 reentry code you were assigned for not reenlisting due to legal child custody issues has been removed from your profile, but the counseling entry is still in your official military personnel file (OMPF). You assert that after returning from deployment and going on a special duty assignment (SDA), your ex-husband would have received full custody of your daughter and, only after you were able to obtain full custody, you reenlisted and accepted orders, and subsequently requested a SDA billet as a drill instructor.

The Board noted that you received the counseling due to your refusal to extend or reenlist to comply with the orders issued by the Headquarters Marine Corps SDA Screening Team. The Board further noted that you were fully aware that you would receive the RE-30 reentry code due to your intent to not reenlist. The Board noted that the entry is given a presumption of regularity which requires you to provide sufficient evidence that the commanding officer's decision to issue the counseling was unjust or was materially in error. The Board, however, determined that you provided insufficient evidence to rebut this presumption of regularity. In this regard, the Board took into consideration your contention, however, determined that the

counseling was factual at the time of issuance, and the issuing officer was well within his discretionary authority to issue the counseling entry.

The Board also noted that the entry was procedurally correct as it met the requirements in the Marine Corps Individual Records Administration Manual (MCO P1070.12K) and the Marine Corps Personnel Assignment Policy (MCO 1300.8 CH1). Specifically, the Board noted that in accordance with policy, career enlisted Marines in receipt of orders issued by the Commandant of the Marine Corps (CMC), who do not have sufficient obligated service to complete the prescribed tour, will be immediately afforded the opportunity to extend/reenlist in order to have the required active service. When the Marine states that he or she does not desire to extend or reenlist, the CMC (MMEA) will be promptly notified and a service record entry will be made. Additionally, only the CMC (MMEA/RAM) may remove the RE-3O code, and if the RE-3O code is subsequently removed, the Page 11 entry will remain a permanent part of the Marine's record.

Although you were afforded the opportunity to provide a written statement in response to the counseling, you chose not to do so. Additionally, you failed to provide any evidence to corroborate your contention that you denied orders due to child custody issues. As such, the Board concluded that the Page 11 entry does not constitute probable material error, substantive inaccuracy or injustice warranting removal from 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,

5/25/2023

