



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. 4648-23
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 15 June 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.

The Board carefully considered your request to remove your fitness report for the reporting period 1 July 2021 to 27 August 2021, and the 27 August 2021 Administrative Remarks 6105 (page 11) entry and associated rebuttal statement. The Board considered that your request is based upon new evidence, specifically, correspondence from your former First Sergeant (1stSgt), the individual arrested for driving under the influence. You also provided correspondence from your chain of command.

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 failing to use proper judgment, responsibility, and maintaining a high level of personal and professional conduct, which resulted in the loss of trust and confidence and relief of your duties and responsibilities as the Company Gunnery Sergeant. The Board also noted that you acknowledged the entry and in your statement, you took responsibility for your poor judgment. The Board determined that the contested entry was written and issued according to the MARCORSEPMAN. Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the

consequences for failure to take corrective action, it afforded you the opportunity to submit a rebuttal, and your commanding officer (CO) signed the entry.

The Board substantially concurred with the previous Board's decision and determined that your fitness report and counseling entry are valid and should be retained as filed. In this regard, the Board noted Marine Corps Performance Evaluation System Manual guidance authorizing corrections based on facts about the Marine that were unknown when the original report was processed. The Board also noted the correspondence from your former 1stSgt and chain of command. The Board noted, too, that your CO was the same officer that adjudicated the misconduct of both you and the 1stSgt, therefore, he was uniquely privileged to the facts and circumstances of both cases. Based on the fitness report comments and counseling entry, the Board found no new evidence and determined that the 1stSgt's statement failed to provide any facts that were not previously known to your chain of command. Moreover, your subsequent performance and conduct and/or perceived limitations of future competitiveness do not constitute an injustice. The Board found the 1stSgt's statement and your chain of command's correspondence unpersuasive and insufficient to warrant the removal of your fitness report and counseling entry. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting 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,

6/21/2023

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