



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

█  
Docket No. 7836-23  
Ref: Signature Date

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Dear █ █

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 applications on 17 October 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 determined that your personal appearance, with or without counsel, would 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 your 2 November 2022 Administrative Remarks (page 11) counseling entry and 8 November 2022 rebuttal statement. The Board considered your statements that the counseling entry was issued after your relief and appointment ceremony, your Reporting Senior was not present when the counseling entry was issued and had no knowledge that it was being issued, and you received above average fitness reports before and after the counseling entry from the Reviewing Officer who issued the counseling entry. You contend that the fitness report covering the period that included the counseling entry contains remarks such as "strong performance as the █ █", and "personifies our core values of Honor, Courage, and Commitment", which are a stark contrast from the counseling entry. You also contend that you were not afforded due process. Specifically, the investigating officer paraphrased the interview by including incoherent thoughts suggesting incompetence. You were denied the opportunity to review the summary of the interview prior to submission or closure of the investigation. In addition, key witnesses were not included in the investigation despite you informing the investigating officer of specific individuals who could provide clarity and were witnesses to the incidents in question. You claim the counseling entry was a result of a Command Investigation derived from an unsubstantiated

Prohibited Activities Complaint submitted by a peer at a subordinate unit and completed after your tenure at the command. As evidence, you provided your fitness report for the reporting period, two preceding fitness reports, and an award recommendation for the Legion of Merit for consideration.

The Board noted that you were properly counseled pursuant to the Marine Corps Individual Records Administration Manual (IRAM) you were issued a page 11 entry counseling you for substandard performance in the area of leadership. Specifically, a command investigation revealed that your current leadership style is unnecessarily aggressive, abrasive, and confrontational when engaging with your peers. The Board also noted that you acknowledged the entry and elected to submit a statement. The Board determined that the contested counseling entry was written and issued in accordance with the IRAM. Specifically, the counseling entry provided written notification concerning your deficiencies, provided guidance for corrective action, and afforded you the opportunity to submit a rebuttal. Moreover, the Commanding General (CG) signed the entry, he/she determined that your conduct was a matter essential to record, and the CG was well within his/her discretionary authority to do so.

The Board found no evidence that the conduct of the Command Investigation was improper or otherwise in error and you provided none. According to the Judge Advocate General Manual, investigating officers are not bound by formal rules of evidence in gathering information, the investigating officer may collect, consider and include in the record any matter relevant to the investigation that is believable and authentic. The Board noted the you were afforded the opportunity to submit a statement and you submitted a statement. Your statement is also properly filed in your official record, therefore, the Board determined that you were afforded all due process rights available to you regarding the issuance of a counseling entry. The Board also determined that your receipt of favorable fitness reports or a personal award does not invalidate the underlying basis for the contested counseling entry. 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. 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,

11/4/2023

