



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

█
Docket No. 9768-23
Ref: Signature Date

█
█
█

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 27 February 2024. 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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 the 13 December 2022 and 23 December 2022 Administrative Remarks (page 11) entries and rebuttal statements. The Board considered your contentions that there was no evidence to support the counselings, the counseling entries were unjustly administered due to your Request Mast regarding a toxic work environment, lack of clear direction, and the commands desire to establish a negative paper trail to remove you from the position as administrative chief.

The Board noted your Request Mast complaint, the Preliminary Inquiry into the command climate, and employment of the administrative chief. The Board also noted your Commanding Officer's (CO) response informing you that your allegations were investigated, the allegations were "Unfounded," no order violations were discovered, there were no indications of a toxic

command climate, and the CO declined your request to remove the administrative structure and to counsel leadership to trust your judgement.

The Board noted on 13 December 2022, you were issued a page 11 entry counseling you for conducting a physical fitness test (PFT) for a Marine outside your unit without authorization, and because were not an appointed Command Physical Training Representative, in violation of the Marine Corps PFT and Combat Fitness Test (CFT) Manual. On 23 December 2022, pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you issued a page 11 entry counseling you for conducting an unauthorized CFT. The entry indicated that you conducted the CFT knowing your command had an all hands CFT scheduled, and you were directly informed by the Training Officer not to conduct a CFT at another time or location. The Board also noted that you acknowledged the counseling entries and submitted statements explaining your actions. The Board, however determined that the counseling entries were written and issued in accordance with the Marine Corps Individual Records and Administration Manual and MARCORSEPMAN.

Concerning your contention that the counseling entries were issued due to your Request Mast, the Board determined that the counseling entries documented misconduct unrelated to the allegations in your Request Mast. Moreover, your CO was best situated to evaluate the totality of the circumstances and the extent of your misconduct. The Board also determined that your CO acted within his/her discretionary authority when determining your misconduct was a matter essential to record. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You also indicate in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude that your counseling entries were submitted as reprisal in violation of 10 U.S.C Section 1034. In making this determination, the Board considered the totality of the evidence, but found no evidence, other than your statement, that your counseling entries were issued as a reprisal action.

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,

3/8/2024

█

Deputy Director

Signed by: █