



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. 9910-23
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 13 December 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.

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 your 30 January 2023 Administrative Remarks (Page 11) counseling entry and your associated statement, as well as the 21 February 2023 Administrative Remarks 6105 counseling entry. You also request to remove your fitness report for the reporting period 1 April 2022 to 7 March 2023. The Board considered your contention that the allegations against you were exaggerated, made up, based on rumors, and had no physical evidence. You claim that a Marine alleged you were cheating on your wife and those allegations were unfounded. The same Marine alleged that you bashed his head into the rocks, eye gouged him, and body slammed him into the concrete, but the Marine did not report any injuries for this incident. You also contend that during the investigation, the Investigating Officer (IO) gathered statements from Marines that were not there during the deployments and used those statements against you in the case. In addition, the IO wrote your statement for you

and reworded or added things that you did not say during the interview. You also claim, “[s]tatements were made stating they did not know where I was during the Haiti mission, however I have statements from Regional Security Officers that I was attending daily meetings with the embassy staff and other high ranking officials within the State Department.” In addition, [REDACTED] never reported any sexual harassment until after returning and speaking with [REDACTED]

The Board noted the Preliminary Inquiry (PI) and the IO’s finding that you violated Uniform Code of Military Justice Article 92 and Article 128. The Board also noted that you were issued a Page 11 entry notifying you of the recommendation to relieve you for cause (RFC) from the Marine Security Guard (MSG) Program. The Board noted, too, that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were counseled concerning your RFC from the MSG Program for loss of trust and confidence. You acknowledged the counseling entries and in your statement, you claim that the Marine that came forward was dishonest and exaggerated the story to make you out to be a bad person and a bad leader. You also highlighted various achievements that took place during your time serving as the Detachment Commander. The Board however determined that the contested counseling entries were written and issued in accordance with the MARCORSEPMAN and the Marine Corps Individual Records Administration Manual. Specifically, the counseling entries provided written notification concerning your deficiencies and afforded you the opportunity to submit a statement. The 6105 counseling provided specific recommendations for corrective action, where to seek assistance, and notified you of the consequences for failure to take corrective action. Moreover, your Commanding Officer signed the counseling entries, and he/she determined that your substandard performance/misconduct were matters essential to record, as it was his/her right to do.

The Board noted that the IO provided a “summary of interview” not only for you, but also of each individual interviewed during the investigation. The Board found no evidence that the IO’s summary of your interview was inaccurate and you provided none. Moreover, the Judge Advocate General Manual permits IOs to provide a summary of interviews and discretion to interview individuals they deem most relevant to their investigation. The Board determined that your Commanding Officer acted within his/her discretionary authority and relied upon sufficient evidence that included the PI when determining that your RFC and counseling entries were warranted. 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.

Concerning your request to remove your fitness report, the Board determined that you have not exhausted your administrative remedies. In accordance with the Marine Corps Performance Evaluation System Manual, the Performance Evaluation Review Board (PERB) is the initial agency for fitness report appeals, therefore you must submit your request to the PERB prior to this Board taking any action on your request.

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,

1/12/2024

