

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 10418-23 Ref: Signature Date

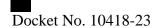
Dear ,

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 application on 14 August 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. In addition, the Board considered the advisory opinion contained in Headquarters, United States Marine Corps memorandum , which was previously provided to you for comment.

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.

You requested to establish eligibility to receive Involuntary Separation Pay (ISP). The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that you did not meet the eligibility criteria to receive ISP in accordance with Marine Corps Order (MCO) 1900.16. Specifically, the order states, the policy indicates Marines separated under other than honorable conditions or by reason of misconduct or unsatisfactory performance of duty are not eligible for separation pay. A Marine may be separated for unsatisfactory performance of duties when "...the basis for failure to conform to weight and/or body composition standards as a result of apathy or lack of self-discipline." Although separation from service under the authority of MCO 1900.16, for weight control/body composition program (BCP) failure, is authorized a payment of



half ISP is authorized, the order specifies, "Body Composition Program failure is the <u>only</u> basis for separation and the Marine's performance and conduct otherwise conform with established standards. This basis will <u>NOT</u> be used if another basis (such as misconduct or unsatisfactory participation or performance) is appropriate."

A review of your record reflects you reenlisted on 15 December 2020 for 4 years. Thereafter you began receiving the following adverse fitness reports and Administrative Remarks regarding your BCP and/or Physical Fitness Test (PFT) failures.

- On 31 December 2021, you were issued NAVMC 10835A, USMC Fitness Report (FITREP) marked as adverse due to you not meeting body composition standards for your age. This FITREP, listed you as 64-inches, 182-pounds, and 22% body fat.
- On 2 February 2022, you were issued NAVMC 118(11), Administrative Remarks, for being assigned to the BCP.
- On 16 February 2022, you were issued a FITREP marked as adverse for not meeting body composition standards for your age and being assigned to BCP. This FITREP listed you as 64-inches, 178-pounds, and 22% body fat.
- On 13 May 2022, you were issued a NAVMC 118(11), Administrative Remarks for failing your partial Physical Fitness Test (PFT) with 8-pullups, 47-crunches, and medically exempt from the 3-mile run.
- On 30 June 2022, you were issued a FITREP marked as adverse for not meeting body composition standards for your age and failing your PFT on 10 May 2022. This FITREP listed you as 63-inches, 176-pounds, and 21% body fat.
- On 14 July 2022, you were issued a NAVMC 118(11), Administrative Remarks for failure to meet height and weight standards while assigned to BCP.
- On 8 September 2022, you were issued a NAVMC 118(11), Administrative Remarks for failing to meet height and weight standards while assigned to BCP. The NAVMC 118(11), Administrative Remarks was signed by a witness due to your refusal to acknowledge the entry.
- On 31 December 2022, you were issued a FITREP marked as adverse for failing to meet body composition for your age and not making satisfactory progress while assigned to BCP. This FITREP listed you as 64-inches, 185-pounds, and 22% body fat.
- On 28 July 2023, issued approval of your administrative discharge with an Honorable Characterization of Service; Separation Code "GHJ3 UNSATISFACTORY PERFORMANCE"; and Reenlistment Code "RE-3P."
- On 7 August 2023, you were issued a FITEP marked as adverse "in regard to his ability to set the example because SNM [Subject Named Marine] has not been able to maintain the Marine Corps standards for appearance, weight, and uniform wear during this reporting period" and "in

regard to judgment due to his lack of ability to make wise choices in relation to his health and fitness, which has a direct impact on the Marines around him should he be required to perform life saving measures." This FITREP listed you as 64-inches, 190-pounds, and 36% body fat.

You were honorable discharged and issued DD Form 214, Certificate of Release or Discharge from Active Duty for period of 1 March 2010 to 7 August 2023 with Unsatisfactory Performance as your Narrative Reason for Separation. Therefore, in this connection, the Board substantially concurred with the comments contained in the advisory opinion, and dtermined a change to your record is not warranted.

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.

