



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. 7188-24
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 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.

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.

You previously applied to this Board for removal of your relief for cause (RFC) and associated counseling entry. You were denied relief on 27 September 2022.

The Board carefully considered your request to remove your RFC. The Board considered your statement regarding your appeal to the Marine Corps Recruiting Command (MCRC) and their denial of your request. You contend that you were wrongfully accused and relieved prior to the completion of all legal proceedings. Upon completion of all legal proceedings, it was found that there was no basis for separation or the allegations against you. You claim the RFC placed a draw case code (DCC) (AO) on your record indicating punitive relief from a Special Duty Assignment, although you received no punitive action, and the RFC resulted in the removal of your 8411 Military Occupational Specialty (MOS). It is your assertion that a RFC would not

have been recommended if it was considered after the conclusion of the investigation, court-martial, and separation board.

The Board noted that a Command Investigation (CI) substantiated recruiter malpractice against you. Specifically, you were the supervisor for the other Marine involved in the investigation, you completed schoolwork for recruits, and accepted payment from another recruit. As a result, the Commanding Officer, Recruiting Station █ relieved you for cause from recruiting duty. The 3 November 2021 counseling entry properly notified you that you are being RFC from recruiting duty for loss of trust and confidence due to allegations of malpractice. The Board also noted the appeal to MCRC to revoke your RFC, reinstate your 8411 MOS, and to remove the counseling entry. The Commanding General, Marine Corps Recruit Depot/Eastern Recruiting Region (CG, MCDR/ERR) considered your appeal and determined the RFC should not be rescinded. The Commanding General, MCRC recommended disapproval and recommend that you submit an appeal to the Board for reconsideration.

The Board affirmed the previous Board's rationale for denying your initial application to this Board. The Board noted that your RFC was reviewed after completion of the investigation, court-martial, and separation board, and the CG, MCRD/ERR and the CG, MCRC determined the RFC remains appropriate. The Board concurs with that determination. Specifically, the Board found that your RFC is valid and supported by sufficient evidence that includes a CI that substantiated recruiter malpractice. The Board also determined that the impact of the DCC on future promotions is not a basis to remove properly adjudicated administrative matters. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers, in the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. 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 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,

9/11/2024

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