



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. 8332-24
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 27 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.

The Board carefully considered your request to remove the 4 August 2021 Administrative Remarks (Page 11) counseling entry and the associated rebuttal statement from your official record. The Board considered your contentions that you were issued the counseling in March 2022 for a failed run time of 29:56 but you did not fail the PFT and your run time was 27:56. You claim that your scores were recorded on an excel file by the S3 and, after multiple attempts you have been unsuccessful in obtaining an official NAVMC, your run score was erroneously recorded in the Marine Corps Training and Information Management System (MCTIMS)/Marine Corps Total Force System (MCTFS). You further claim that the counseling entry incorrectly states you were counseled on 4 August 2021; however, as shown by your rebuttal, it was not issued until March 2022. You point out that the Marine Corps Separation and Retirement Manual (MARCORSEPMAN) state rebuttals must be submitted within five days of issuance. Finally, the Board considered your claims that you were not afforded the opportunity to sign the adverse fitness report ending 28 July 2021 until November 2021, at which time you were made aware of the adverse nature of the fitness report.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a 6105 entry counseling you for failure to pass the minimum standard for the PFT from 1 January 2021 to 30 June 2021 as outlined in MCO

6100.13A. The Board noted that you signed the counseling entry and in your statement, you explain the above mentioned contentions emphasizing that your run score was actually 27:56, and not 29:56, as evidenced by the 15 October 2021 PFT with a passing run time of 27:36, you have since proven you are capable of passing a PFT. However, the Board determined that the contested counseling entry was written and issued according to the MARCORSEPMAN. Specifically, the counseling entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal, which you did. Moreover, the commanding officer (CO) signed the counseling entry, and determined that your substandard performance/misconduct was a matter essential to record, as it was his/her right to do. In regards to your contention that the counseling entry was dated August 2021 but was not issued until March 2022, the Board determined that you were not disadvantaged by the lapse in time and were afforded still the opportunity provide a statement, which you did. Further, the Board determined, other than your personal statement, you provided insufficient evidence that the run portion of your PFT was in error. The Board noted the commanding officer would have considered your claims at the time the counseling was issued as they were provided in your rebuttal statement. Thus, the Board determined that the CO relied upon sufficient evidence and acted within his/her discretionary authority when deciding that your counseling entry was warranted.

Additionally, the Board also noted that you signed the adverse FITREP and elected not to make a statement. According to MCO 1610.7A (PES), when the Marine Reported On indicates there is not statement to make, the report is considered accurate.

Finally, 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. The Board thus concluded that the documentation of your Page 11, although incomplete, is valid, and does not constitute a probable material error or injustice warranting removal from your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken. 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,

9/25/2024

