



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

█
Docket No. 9043-24
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 8 October 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

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.

The Board carefully considered your request to remove the 24 April 2024, 20 May 2024, and 30 May 2024 Administrative Remarks (Page 11) 6105 counseling entries and any associated rebuttal statements. You also request to removal of your fitness report for the reporting period 1 January 2024 to 30 May 2024. The Board considered your assertion that you were under investigation for eleven months for allegations of being in contact with former students. The Board also considered your contention that you were referred to court-martial, however, the case was dropped due to allegations being uncorroborated. You further claim the case was dropped for falsely referencing a non-punitive Marine Corps Bulletin.

The Board noted that on 25 March 2024, following a Command Investigation, Commanding Officer, School of Infantry-East (CO, SOI-E) determined that you violated SOI-E Order 1500.4 (Standard Operating Procedures for Training at SOI-E) by displaying inappropriate behavior with an entry-level student. As a result, CO, SOI-E recommended that you be relieved for cause

(RFC), and that your additional military occupational specialty of 0913, combat instructor, and incentive pay be revoked due to loss of trust and confidence.

The Board noted that you were counseled regarding your violation the Uniform Code of Military Justice, Article 92 for violation of SOI-E Order 1500.4; Article 131b for obstructing Justice, and violation of Article 92, by not maintaining your Service "A" Enlisted Uniform as required. You signed the counseling entries, and your written rebuttals are filed in your official military personnel file. The Board determined the entries were issued in accordance with paragraph 6105 of the Marine Corps Separation and Retirement Manual. Specifically, the entries provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and they afforded you the opportunity to submit a rebuttal. Moreover, your CO signed the entries and determined that your misconduct was a matter essential to record, as it was his right to do. In regard to your contention that court martial was dropped for referencing a non-punitive Marine Corps Bulletin, the Board determined that fact does not negate the CO's finding that you committed misconduct, and it does not invalidate his decision to issue the contested counseling entries or request your RFC.

The Board noted that based upon a Command Investigation, there was sufficient evidence that your conduct with multiple female entry-level student Marines was inappropriate behavior when considering your billet as a combat instructor. The Board found insufficient evidence that the investigation or your CO's decision to relieve you for cause was in error, and you provided none. The Board determined that your CO acted within his or her discretionary authority and relied upon sufficient evidence that included the command investigation when determining that your RFC, termination of your incentive pay, and counseling entries were warranted. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the counseling entries or any associated adverse materials. 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. The Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals, therefore, you must submit your request to the PERB according to the Marine Corps Performance Evaluation Section Manual.

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,

11/7/2024

