



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

█
Docket No. 9633-24
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 1 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 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 18 August 2023 Administrative Remarks (Page 11) counseling entry and associated rebuttal. The Board considered your statement that the counseling entry was issued by a command that did not conduct the initial investigation into the allegations against you. You claim the investigation initially focused on alleged inappropriate relationships with junior Marines and concluded with the allegations being unsubstantiated. You contend that despite this outcome, a narrative based on hearsay was created, leading to the counseling entry. You also contend that you did not receive an adverse fitness report, and the findings from your previous command did not substantiate any misconduct. Further, you provided a detailed rebuttal emphasizing your commitment to Marine Corps values, respect for rank distinctions, and the maintenance of good order and discipline. Despite the lack of factual basis, this counseling entry is unjustly affecting your career.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a Page 11 entry counseling you regarding a command investigation, which revealed that you engaged in conduct with junior enlisted Marines that was unduly familiar and did not respect differences in grade or rank. The Board also noted that you acknowledged the entry, and in your statement, you indicated that you did not

intend to be perceived as unduly familiar or sexually flirtatious. Board, however, determined the contested entry was written and issued according to the MARCORSEPMAN. Specifically, the 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. Moreover, your commanding officer (CO) signed the entry, and he/she determined that your substandard performance/misconduct was a matter essential to record, as it was his/her right to do.

The Board determined that the CO that issued your counseling entry acted within his/her discretionary authority; regardless of the command that initiated the investigation, your current CO is the proper authority for any disciplinary or administrative action. The Board also determined that an adverse fitness report is not required to document all deficiencies, the Marine Corps Performance Evaluation System Manual provides Reporting Seniors with the discretion to determine when a fitness report should be rendered adverse. Moreover, the Board found no evidence to support your claim that the allegations were unsubstantiated, and you provided none. 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,

10/11/2024

