



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

Docket No. 10959-24
Ref: Signature Date

Dear [REDACTED],

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 11 March 2025. 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 also considered the 23 October 2024 and 11 February 2025 decisions by the Marine Corps Performance Evaluation Review Board (PERB) and the 9 July 2024 Advisory Opinions (AO) provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-23). The PERB Decisions and the AOs were provided to you on 14 January 2025 and 20 February 2025 and you submitted rebuttals dated 15 January 2025 and 21 February 2025.

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.

On 31 March 2018, you were arrested for drunk and disorderly conduct at a bowling alley onboard [REDACTED]. On 25 May 2018, you received nonjudicial punishment (NJP) for violations of Articles 133 and 134 of the Uniform Code of Military Justice (UCMJ). You were issued a punitive letter of reprimand (PLOR) and forfeiture of pay. In addition, you received an adverse fitness report documenting the NJP. You did not elect to appeal the NJP but submitted a statement in response to the PLOR. The Report of NJP was forwarded by Commanding General (CG) [REDACTED] ([REDACTED]) on 25 June 2018.

with a recommendation that you be required to show cause for retention in the Marine Corps. On 16 July 2018, in response to the Report of NJP, you submitted a statement explaining the events of 31 March 2018 which resulted in the NJP. CG, ██████████ (██████) endorsed the Report of NJP on 2 August 2018, concurred with the recommendation that you be required to show cause for retention, and directed a Board of Inquiry (BOI). The specific reasons for separation to be considered by the BOI were substandard performance of duty, misconduct, and moral or professional dereliction.

The BOI substantiated substandard performance of duty by reason of failure to demonstrate the acceptable qualities of leadership required of an officer but did not substantiate the basis of misconduct and moral or professional dereliction. The BOI further found the substandard performance of duty did not warrant your separation from the United States Marine Corps (USMC) and recommended closing the case. The Report of BOI was forwarded to the Secretary of the Navy on 3 May 2019 and you submitted a statement. On 24 June 2019, CG, ██████████ forwarded the Report of BOI, recommending approval. On 23 August 2019, CG, ██████████ forwarded the Report of BOI, recommending the case be closed and the adverse material pertaining to the incident not be included in your Official Military Personnel File (OMPF). On 30 August 2019, CG, ██████████ set aside the NJP, based on viewing, for the first time, the video surveillance recording of the bowling alley incident. On 20 February 2020, the Commandant of the Marine Corps (CMC) directed your case be closed but directed inclusion of the adverse material concerning the matter in your OMPF.

You successfully petitioned the PERB to remove the adverse report, covering the period 1 June 2017 to 25 May 2018, based on the NJP's set aside status. You then petitioned the Board to remove all adverse information from your OMPF regarding the 25 May 2018 NJP and subsequent BOI. You argued that it was unjust for the derogatory material to remain because the BOI did not substantiate the misconduct basis. On 29 April 2022, the Board determined that but for the NJP, you would not have been required to show cause for retention in the Marine Corps at a BOI and concluded, in the interest of justice, the derogatory material be removed from your OMPF.

For this petition, you request removal of the fitness reports covering the periods 16 May 2018 to 12 January 2019 and 13 January 2019 to 31 May 2019; periods during which you were undergoing NJP and BOI proceedings. You argue these reports are unjust as after the NJP, you were removed from Company Command and reassigned as an Assistant Operations Officer and a Squadron Readiness Officer; roles, you contend, that were below your capability. You claim you received lower marks and unfair evaluations not based on your actual performance but as a result of being viewed as a terminal captain. You believe you were unfairly evaluated in comparison to peers who were still in company command assignments. You further argue that your reporting senior (RS), who was the Investigating Officer with regard to your NJP, was biased against you and, as a result, your fitness report was not objective. Finally, you contend these fitness reports will unjustly hinder your ability to compete for command.

The advisory opinions noted that the reports, although they coincide with the period of the NJP and BOI, did not specifically mention events related to the NJP, PLOR, or BOI and found the reports valid as written. The Board noted you received very positive comments by the RS and

Reviewing Officer to note, "During this period he demonstrated exceptional professional growth, leadership, character, and managerial ability that we need to retain in our Corps... This Marine is especially adept at administrative matters and proved his mettle while reorganizing his program." The Board found there was no overt evidence to suggest that the reporting chain retaliated against you and the fact that you were assigned as a Readiness Officer does not constitute error or injustice. The Board thus concluded there is insufficient evidence that your performance and conduct warranted higher marks and that there is no indication of bias, probable material error, substantive inaccuracy, or injustice in the reports. 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,

4/10/2025
