



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

[REDACTED]
Docket No. 11365-24
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 11 February 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 applications, 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 your 21 April 2023 Administrative Remarks 6105 (Page 11) counseling entry. The Board considered your contentions that the counseling entry was issued for an incident involving accountability of equipment after returning from an exercise on 3 April 2023. You assert that while executing leave from 4 April 2023 to 18 April 2023, a piece of equipment was rearranged and reported missing to the command, who then claimed that you sent a false accountability report. Upon returning from leave, you contend that you were able to locate and recover the equipment for the command, you were informed the original counseling entry was incorrect and needed to be re-signed, and you were given another opportunity to rebut; however, the erroneous version was altered and uploaded to your Official Military Personnel File (OMPF). Finally, the Board considered your assertion that the Third Officer Sighter indicates in your fitness report for the period ending 30 September 2023 that "no equipment was lost to the command."

The Board noted that, pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a 6105 entry counseling on or about 3 April 2023 for failure to properly account for equipment under your responsibility. Specifically, upon returning from [REDACTED], you reported that all equipment was

accounted for. However, further investigation revealed that this was incorrect. Then, on or about 5 April 2023, you were tasked with enrolling Marines into a Bulk Fuel course but, due to your failure to follow through, the Marines were unable to attend the course as they were never enrolled. The Board noted you signed the counseling entry and were afforded the opportunity to provide a statement. Although you did provide a statement for the Board's consideration, the Board found no evidence of the statement in your OMPF. The Board also noted that these same contentions in your rebuttal were presented to the Board.

The Board considered your contention that the Third Officer Sighter (TOS) indicated in your fitness report for the period ending 30 September 2023 that "no equipment was lost to the command." However, upon further review, the Board noted that the TOS adjudicated the factual differences as follows: on 3 April 2023, you remained behind to account for and offload equipment upon return from Exercise [REDACTED]. Despite your visual confirmation of the serial numbers and nomenclatures, further investigation revealed discrepancies, including one serialized container and a light water purification system being inadvertently delivered to another Camp. The TOS determined that your assertion of accountability was misleading; noting this discrepancy occurred while you were on annual leave. Additionally, on 5 April 2023, the TOS further indicates that you were tasked with enrolling Marines into a Bulk Fuel course but that your failure to follow through on this task resulted in the Marines not being enrolled and, consequently, unable to attend the course. The TOS also noted that, during the reporting period, your Reporting Senior (RS) observed significant lapses in your judgment and a need for direct supervision in routine matters; particularly during the fast-paced and demanding operations of [REDACTED] and [REDACTED]. These concerns, coupled with multiple unsuccessful attempts by leadership to guide you, led to the formal derogatory counseling. Thus, the Board determined your claims to be without merit and adjudicated the events leading to the counseling entry as justified by your chain of command.

The Board determined the counseling entry was made with proper consideration of all the facts and circumstances surrounding your performance. Thus, the Board determined the evidence presented in your rebuttal as well as your claims do not sufficiently demonstrate that a material error or injustice occurred. Therefore, the Board determined 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. Moreover, your commanding officer (CO) signed the counseling entry, and he or she determined that your substandard performance was a matter essential to record, as it was his or her right to do. The Board, thus determined that the CO relied upon sufficient evidence and acted within his or her discretionary authority when deciding that your counseling entry was warranted.

Moreover, 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 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.

Concerning your request to remove your fitness report for the reporting period 1 January 2023 to 30 September 2023, 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 Appeals 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,

3/6/2025

