



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 2053-25
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 11 February 2026. 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 determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove all records pertaining to the Report of Misconduct (ROM) dated 4 November 2022 and the Administrative Remarks (Page 11) counseling entry dated 25 August 2021.

The Board, having reviewed all the facts of record pertaining to your allegations of error and injustice, found as follows:

1. Before applying to this Board, you exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.
2. On 4 May 2022, Inspector General (IG), █, received an anonymous complaint alleging you engaged in harassment and discrimination towards members of your unit. In response to the complaints, Commanding Officer (CO), █

█, appointed an investigating officer (IO) to “inquire into the facts and circumstances surrounding the allegations of bullying, harassment, and aggressive behavior.”

3. A Command Investigation (CI) was completed on 29 June 2022. The IO, with the intention of conducting a “360 assessment,” contacted 48 personnel, which included subordinates, peers, and superiors. These were Marines ranging from the rank of sergeant to colonel, as well as contractors and General Schedule (GS) employees. The IO found your conduct constituted bullying and harassment. Specifically, the IO stated that “[r]egardless of whether [you] actively intended to bully or harass...and regardless of the fact [you] ultimately rated him highly on his fitness report,” the IO believed you were “recklessly indifferent to the effect [your] conduct was having on both █ and the █ staff.” Additionally, the IO found that your “aggressive behavior created an intimidating and hostile work environment within the █.” The IO recommended Commanding General (CG) █ remove you from your current position and reassign you outside of █ because “[o]nce a leader is perceived to be toxic, the only way to improve morale and stem the flight of talent from an organization is to remove that leader from that organization.” However, the IO noted that he believed you “deserve[d] a second chance at a new unit.” Additionally, the IO recommended you be “informally counseled regarding [your] leadership style, deficiencies in [your] communication, and professionalism in interacting with both uniformed and civilian colleagues.”

4. By his endorsement of 13 July 2022, CO, █, noted his concurrence with the IO’s recommendations.

5. On 3 August 2022, the Equal Opportunity Advisor (EOA), █, provided an Equal Opportunity compliance review in accordance with JAGINST 5800.7F (JAGMAN) and MCO 4354.1F (Prohibited Activities and Conduct (PAC) Policy). The EOA stated the CI “thoroughly addressed the command’s concerns, effectively covered the prohibited activity and circumstances, and detailed the victim’s treatment by the offender.” Further, the EOA stated the investigation addressed the allegations from the IG complaints, and included “a thorough review of the circumstances under which the alleged prohibited activity and conduct occurred.”

6. On 5 August 2022, Staff Judge Advocate (SJA), █, conducted a legal sufficiency review of the CI and determined the CI complied with all applicable legal and administrative requirements, adequately addressed the complaints, and contained no errors or irregularities. Further, the SJA determined the evidence supported the IO’s findings and the conclusions and recommendations of the IO were consistent with the findings.

7. By his endorsement of 1 September 2022, CO, █, recommended the violations be documented as derogatory material via Page 11 counseling. Further, the CO recommended your relief for cause/being moved to a new work section “due to this conduct-related adversary.”

8. On 7 October 2022, CG, █, closed the case after finding the CI was in substantial compliance with the governing references. The CG concurred with the IO’s findings of fact and

opinions and noted in his endorsement that he would administratively counsel you in accordance with MCO P1070K (IRAM) for the misconduct identified in the CI.

9. On or about 17 October 2022, CG, █, counseled you in accordance with paragraph 3005.3 of the IRAM for violation of Article 92 of the Uniform Code of Military Justice (UCMJ), failing to obey a lawful general order. Specifically, you were counseled for “bullying and harassing a subordinate Marine and creating an intimidating and hostile work environment” between August 2021 to on/about April 2022. The entry was signed by yourself and the CG and provided you with an opportunity to submit a written rebuttal. You elected to submit a written statement in response to the counseling which you called “a statement of acknowledgement.”

10. In your statement dated 17 October 2022, you noted you valued the people you lead and “will continue to develop [your] leadership style to better showcase that value to the personnel under [your] charge.” Further, you stated that “[u]pon self-reflection, [you] have identified leadership tactics and techniques that require refinement” and you “remain committed to refining [your] leadership style and readily engage in leadership discussions with peers and seniors in an effort to enhance [your] capabilities.”

11. As required per paragraph 010604 of MCO 5800.16 (LSAM) Volume 15, CG, █, submitted a ROM on 4 November 2022 based on the determination you “failed to obey MCO 5354.1F by bullying and harassing a subordinate Marine and creating an intimidating and hostile work environment.” The CG recommended you not be required to show cause for retention in the Marine Corps at a Board of Inquiry because, “[d]espite [your] misconduct, [you have] potential for further service.”

12. On 8 November 2022, you acknowledged receipt of the ROM and indicated you did “not desire to submit a statement” and that you understood the letter would be included in your official military personnel file (OMPF) if Deputy Commandant, Manpower and Reserve Affairs (DC (M&RA)) elected to include the adverse material in your OMPF.

13. On 23 January 2023, DC (M&RA), the designated Show Cause Authority for the Marine Corps, directed your case be closed after determining the information provided, while adverse, did not warranting processing for administrative separation. He further noted the adverse material would be included in your OMPF.

The Board carefully considered your contention you recently learned “proper procedures were not followed during the conduct of this case.” You contend you did not know the injustice had occurred because you were not aware of the proper legal procedures but, “while discussing legal matters with peers that have served as executive officers in the past,” you learned of the injustice. Specifically, you contend the following:

1. The IO did not read your Article 31 rights to you and, prior to questioning you, did not inform you that you had been accused of committing a crime.

2. You were not provided with a NAVMC 11513 Offender Acknowledgement Record and were never afforded an opportunity to submit an appeal to the General Court Martial Convening Authority (GCMCA) for consideration.

3. You contend your claim is validated because none of the above noted forms are present within your record.

4. The contested Page 11 entry clearly states you violated Article 92 of the UCMJ. You contend that had you known you were charged with such a violation, you would have sought legal assistance to ensure your rights were protected. However, you “only found out that [you were] charged after the GCMCA made a decision.”

After a thorough review of your submission and relevant records, the Board determined there was insufficient evidence of material error or injustice warranting your requested relief.

First, from reading your responses during the IO’s interview, the Board determined you were aware of the IG complaint because you specifically noted the claims that led to the IG complaint occurred when you were a Major which you felt was a “very important distinction.” Further, the Board determined the consequence of the IO’s decision not to read your Article 31(b) rights to you does not invalidate your statement because such statements may still be admissible in administrative proceedings or actions. Additionally, the Board noted your “acknowledgement response” to the Page 11 counseling of 17 October 2022 was written after you became aware of the GCMCA’s determination you had violated Article 92. In your response, you did not argue that you were unaware of the charges, that you were not read your rights, or that you did not have an opportunity to seek legal assistance. Instead, the Board noted you maturely acknowledged the things you had learned and your commitment to leading well and creating a positive work environment.

Second, the Board determined it was not error or injustice for you to have not been notified using a NAVMC 11513 Offender Acknowledgement Record. Specifically, the Board noted this form is required when a service member is the subject of a Prohibited Activities and Conduct (PAC) complaint. However, the Board noted the complaint was made by a GS civilian who appropriately filed his complaint with the IG because civilians do not use the PAC process to report misconduct.

Lastly, because you contend the procedural process was not followed, the Board specifically considered whether you had been afforded due process. After reviewing the facts of record, your contentions and supporting evidence, as well as the CI and ROM, the Board determined you had been afforded due process. Specifically, the Board noted the CI was reviewed by both the EOA and the SJA and found to be sufficient in law and fact. Further, the Board noted you acknowledged receipt of the ROM on 8 November 2022, declined the opportunity to submit a statement, and acknowledged your understanding the letter would be included in your OMPF if DC (M&RA) elected to include it. Moreover, if you had desired to seek advice from legal counsel regarding an appeal to the GCMCA, you had 10 working days from the 8th of November to seek such advice.

Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice to overcome the presumption of regularity attached to the official actions taken by your chain of command. Thus, the Board concluded the counseling entry and ROM should remain in your record. Accordingly, given the totality of the circumstances, the Board determined 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,

2/27/2026

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Executive Director

Signed by: █