



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

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Docket No. 3716-25
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 14 January 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 carefully considered your request to remove from your record (1) the non-judicial punishment (NJP), dated 16 September 2022, along with any adverse material stemming from it, and (2) the resulting adverse fitness report covering the period of 24 September 2020 through 16 September 2022. You contend that your command failed to consider evidence throughout the NJP process and the Commanding Officer (CO) who issued the NJP was biased against you and acted inappropriately. Specifically that: (1) the CO's conduct could be considered unlawful command influence, (2) the CO's bias against you eliminated any opportunity for you to receive fair consideration related to minor allegations, (3) you did not know you travelled outside of the local liberty boundary limits, as you were under the impression students could travel outside of those limits based on the training location, (4) you did not fail to phone muster, but mustered as ordered, and were confused with another member of the same surname who failed to muster, (5) your CO's pursuit of your Military Occupational Specialty (MOS) redesignation, despite your case being closed by the Separation Authority (SA), strongly suggests retaliation at minimum, and willful maltreatment at worst, (6) you believe you were judged based on others' perceptions of what a new Marine Corps officer/potential aviator should be, and you did not fit those perceptions, (7) you were taken to NJP by a CO who was not the CO at the time of the alleged

offenses, and that your previous CO took no adverse action against you, (8) a witness who you believed would testify favorably on your behalf at the NJP drastically changed his testimony after being influenced by the new CO, (9) the new CO displayed his disdain for you and provided misleading information at the NJP, and (10) even though your case was closed by the SA and you were retained, you were not given a second chance, in direct contrast with another Marine you cite from a *War Horse* article, who, in your opinion, committed worse misconduct, but was treated more favorably.

The Board, however, found that you did not meet the burden of proof that probable material error, substantive inaccuracy, or injustice exists to warrant removal of the NJP, related adverse material, or the fitness report. Regarding removal of the NJP, although you raise many potential concerns related to your CO and the NJP, the Board found that your contentions lack merit. The Board noted that you were present at your NJP and accorded all rights available under the Manual for Courts-Martial (MCM). Further, you indicated your acceptance of NJP and were advised of your right to appeal both the NJP and resulting Punitive Letter of Reprimand, but chose not to do so. The Board also found, in addition to your voluntary acceptance of NJP, that the misconduct underlying the charges against you was sufficiently supported by the evidence and you pleaded guilty to both charges. Particularly concerning contentions (3) and (4), the Board opined that it is not the Board's role to reinvestigate your misconduct. Rather, 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 in relation to your NJP, and the related adverse material, in its entirety.

Regarding contentions (1), (2), and (9), that your CO exercised unlawful command influence (UCI) or showed unfair bias or disdain for you during the NJP process, the Board determined there was insufficient evidence to support these contentions. UCI is the improper use, or perception of use, of superior authority to interfere with a military tribunal as prohibited by Article 37 of the Uniform Code of Military Justice (UCMJ). The Board found insufficient evidence that UCI occurred. Particularly relating to contention (8), the fact that a witness testified at your NJP differently than you anticipated, or that a witness you thought would testify ultimately did not testify, does not indicate UCI. Witnesses often fail to appear, for numerous reasons, and frequently do not testify as anticipated. Furthermore, apart from your own statement that you believe the witnesses were negatively influenced, you provide no other evidence to support this contention. Likewise, your CO's decision to take lawful disciplinary action against you for misconduct does not equal bias. It is a CO's responsibility to appropriately address misconduct committed by members of his command. Additionally, regarding contention (7), the fact that your previous CO did not act against you, did not prevent your incoming CO from lawfully doing so. The Board therefore concluded your CO acted appropriately, within his discretion as your CO, and in accordance with the available evidence.

Regarding contention (5), that you were the victim of reprisal by your CO, the Board again determined there was insufficient evidence to conclude the change of your MOS constituted reprisal in violation of 10 U.S.C Section 1034. That said, if you believe you are the victim of reprisal, under 10 U.S.C Section 1034, you have the right to request that the Secretary of War review the Secretary of the Navy's decision regardless of whether your reprisal allegation is

substantiated or non-substantiated. If you chose to pursue this course, your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a de novo review, and under 10 USC 1034(c) the Secretary of War cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of War for Personnel and Readiness, Office of Legal Policy, 4000 War Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR, therefore, please also include previously presented documentation that supports your statements.

Regarding contention (6), that you believe you were judged unfairly because you did not fit the perception of what a Marine Aviator student should be, the Board found this contention speculative and without merit. Likewise, regarding contention (10), the Board was not swayed by your attempt to compare your treatment with that of another Marine, as documented in the *War Horse* publication. The Board noted that, regardless of how similar fact patterns may seem between two cases, each case is unique and can, and often does, result in differing adjudications.

Lastly, regarding your request to have adverse material related to your NJP removed, including your fitness report, the Board determined all the adverse material remains valid as written and filed. This finding was based on the Board's conclusion that your NJP was valid. The Board additionally noted that your fitness report was properly prepared and filed in your Official Military Personnel File (OMPF) and that you exercised your right to submit a statement, which was also appropriately filed. As such, the Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

1/30/2026

