



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

██████████
Docket No. 2613-21
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your applications on 14 October 2021. 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 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.

The Board carefully considered your request to remove your 2 April 2016 Administrative Remarks (Page 11) 6105 counseling entry. The Board considered your contentions that you have a clean record and outstanding military service other than this single isolated incident, and the counseling was unjust and a heavy-handed approach to handle a less serious offense.

The Board noted the character letters you provided in support of this request, to include a favorable endorsement from your Reporting Senior who indicated his concurrence with the 6105 counseling entry, but also opined that the counseling was unjust and a heavy-handed approach.


By signing the 2 April 2016 counseling, your Commanding Officer indicated that he believed it to be appropriate based on the facts and circumstances, and using a preponderance of the evidence standard.

The Board thus determined that the issuing officer was well within his discretionary authority to issue the counseling entry, and that the entry met the 6105 counseling requirements detailed in MCO 1900.16 CH2 (MARCORSEPMAN). Specifically, the Board noted that the entry provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You were afforded the opportunity to rebut the counseling; however, you chose not to do so. The Board thus concluded that the Page 11 6105 counseling entry does not constitute probable material error or injustice warranting removal from your record.

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,

10/31/2021

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Executive Director

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