



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

█
Docket No: 5303-21
Ref: Signature Date

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Dear █ █

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 application on 8 February 2022. 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 further 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 Administrative Remarks Page 11 (6105) counseling entries of 16 May 2007 and 17 March 2008. You received the 6105 of 16 May 2007 for violating Article 92 (Failure to obey order or regulation); 107 (False Official Statement); and 134 (Adultery) of the Uniform Code of Military Justice (UCMJ). You argue that the 6105 is erroneous as you were divorced in January 2007 and submitted your divorce case docket history as evidence. You received the 6105 of 17 March 2008 for your off duty conduct; the 6105 states that you were either arrested/detained or cited for multiple domestic issues dating from 2004 to 2008. You included with your petition Family Advocacy Program (FAP) clinical notes as evidence that you were not the aggressor in the domestic disturbances cited in that particular 6105.

The Board noted that the 6105 of 16 May 2007 states, "During the period of February 06 to February 07, your personal statements and your personal actions presumed the above articles to be violated." Thus, even if your divorce was finalized in January 2007, it does not prove that you did not commit adultery, make false official statements, or fail to obey an order or regulation during the time period during the period in question. Regarding the 6105 of 17 March 2008, the Board acknowledged the FAP clinical notes and the No Prosecution Order of 20 October 2006, but decided that they provided insufficient evidence to invalidate the 6105 entry. Specifically, the Board concluded that the counseling covers alleged incidents over a greater period of time than addressed by any of your submitted evidence.

The Board noted that the contested entries were written and issued in accordance with MCO 1070.12K, Marine Corps Individual Records Administration Manual (IRAM). Specifically, the entries provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, and consequences for failure to take corrective action. In addition, the entries afforded you the opportunity to submit a rebuttal, and your commanding officer (CO) signed the entry. Moreover, the entries created a permanent record of matters your CO deemed significant enough to document. Finally, the Board noted that you signed both entries and did not elect to submit a rebuttal statement to either one. The Board thus concluded that there is no probable material error or injustice warranting further action.

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,

2/17/2022



Executive Director

