



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

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Docket No. 362-22
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 application on 12 May 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 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 14 October 2018 Administrative Remarks (Page 11) 6105 counseling entry and associated rebuttal. The Board considered your contention that the entry holds no merit and includes statements or false actions that did not happen while serving as a Marine Security Guard. You also contend that the Regional Security Officers (RSO) were very adamant when it came to neglecting duty and standard operating procedures, and the RSO knew when and where individuals would deviate from their duties. You assert that as the assistant detachment commander and operations non-commissioned officer, you would work with the RSO to coordinate exercises and joint exercises with other departments to ensure that in any event, all security personnel knew their role, knew the roles of others, and were able to respond in a timely manner.

By signing the Page 11 6105, your commanding officer (CO) 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 counseling requirements in accordance with the Separation and Retirement Manual. 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, and your rebuttal was filed in your official military personnel file (OMPF), and reviewed by the Board.

With regards to your contentions, the Board took into consideration your rebuttal statement and the character statements you provided; however, the Board noted that a Page 11 6105 counseling is given a presumption of regularity which requires you to provide sufficient evidence that the CO's decision was unjust or was materially in error. The Board determined that you provided insufficient evidence to rebut this presumption of regularity. The Board further determined that your CO adhered to the requirements in accordance with the Marine Corps Individual Records Administration Manual. The Board thus concluded that the Page 11 6105 counseling entry does not constitute probable material error or injustice warranting removal from your OMPF.

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,

6/10/2022

