



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. 2224-22
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 21 April 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 carefully considered your request to remove an 8 January 2019 Administrative Remarks (Page 11) counseling entry from your official military personnel file. You contend the counseling alleges a violation of the Uniform Code of Military Justice (UCMJ) rather than noting a deficiency. Specifically, you contend the entry claims you violated the UCMJ "when there had been no adjudication at any level." You also contend the counseling entry is "misleading in nature" because there was no adjudication nor any available records related to the accusation.

The Board determined the contested counseling entry of 8 January 2019 creates a permanent record of matters the issuing Commanding Officer (CO) deemed an essential part of your military history. The Board also determined the entry met the requirements detailed in MCO P1070.12K W/CH 1 (IRAM). The Board noted you were provided the opportunity to rebut the entry and that it was appropriately issued by the CO, as evidenced by his signature on the entry.

The Board also determined that a Page 11 counseling is an administrative tool available for CO's to address minor misconduct, and "adjudication at any level" does not require punitive action or nonjudicial punishment. The Board thus concluded the CO's decision to issue a counseling entry

reflects his determination the preponderance of the evidence had been met that you violated the UCMJ as described in the counseling entry. The Board concluded there is insufficient evidence of material error or injustice warranting the removal of the 8 January 2019 counseling entry.

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,

5/12/2022



Executive Director

Signed by:

