



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: 3831-22
Docket No: 3832-22
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.

A three-member panel of the Board, sitting in executive session, considered your application on 5 July 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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 the 9 August 2021 and 26 January 2022 Administrative Remarks 6105 (Page 11) counseling entries from your official military personnel file. The Board considered your contention that these 6105 entries were issued due to false allegations made by your spouse after you filed for divorce and a military protective order. You also contend the 9 August 2021 6105 counseling is in error because it was dated after you signed it, and by a third party, and because you were not afforded the opportunity to submit a written rebuttal. You argue that your command failed to conduct an investigation of your claims of domestic abuse from your spouse before you were counseled. Lastly, the Board considered your assertion that your spouse's continuous abuse has negatively impacted your career and mental health, and the removal of the aforementioned 6105 entries will help you progress in your career.

The Board, however, determined that your 6105 counseling entries are valid as written and filed. In this regard, the Board determined the issuing officer was well within his/her discretionary authority to issue the counseling entries, and they met the 6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN). Specifically, the Board noted that the entries 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.

In regards to your contention that you were not given the opportunity to write a rebuttal statement, the Board noted the Commanding Officer, [REDACTED] Memorandum 5800 Legal of 25 August 2021 stated that although you elected to submit a rebuttal for the 6105 dated 9 August 2021, you had not done so. Further, the Board noted that the rebuttal statement you provided in support of your request was dated 28 January 2021, more than four months after the 6105 counseling was issued.

The Board acknowledged that your relationship with your spouse was clearly strained, however, the Board found that there was insufficient evidence that your command improperly issued the 6105 counseling entries. Finally, the board noted that the perception that a particular counseling may reduce your competitiveness for career progression is irrelevant in determining whether or not the counseling should be removed and that the adversity is in the recorded performance, not in perceived future competitiveness. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective 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,

8/10/2022

[REDACTED]