



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. Although you were afforded the opportunity to rebut the counseling, you chose not to do so.

The Board noted that a Page 11 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 further noted that you provided insufficient evidence to rebut this presumption of regularity. The Board took into consideration the decision of the Commonwealth of [REDACTED] Criminal Court to dismiss your case, but noted they will do so after you successfully complete the terms of the Accelerated Rehabilitative Disposition Program, an alternative treatment program in lieu of trial. Additionally, although the criminal charges against you are pending dismissal contingent upon your completion of the above-mentioned program, the Board determined that the pending dismissal does not exonerate you from your misconduct and the Page 11 is factual as to the events that occurred on that particular day. As such, the Board determined there is nothing that precluded your CO from issuing the counseling entry. The Board thus concluded that the Page 11 does not constitute probable material error, substantive inaccuracy, or injustice warranting removal from your official military personnel file. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

11/18/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]