



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

█  
Docket No. 7387-22  
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 applications on 25 October 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 18 November 2020 Administrative Remarks 6105 (page 11) entry. The Board considered your contentions that you signed the page 11 entry under duress and the date on the page 11 entry does not match the date the events occurred. You claim that you were stopped for driving without a license while on base, on 5 June 2020, and you attended a family gathering, on 20 September 2020, where you were drinking and unknowingly consumed a slice of a birthday cake that was laced with marijuana. The next morning you went to work and immediately informed the Staff Sergeant about what occurred. You volunteered to take a urinalysis, and the preliminary inquiry (PI) found that you did not knowingly consume marijuana. You argue that despite the findings of the PI, you were still issued a page 11 entry. You also argue that the page 11 entry not only cited your initial traffic violation for driving without a valid operator permit, the page 11 entry also counseled you for testing positive on the urinalysis and attempting to smuggle a person on base. You claim that you never attempted to smuggle someone on base.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a 6105 page 11 entry counseling you for driving a privately owned vehicle without a drivers' license, for attempting to smuggle an unauthorized

person on base by hiding her in the trunk of the car, and putting yourself in a compromising position by disregarding current COVID policies and attending an unnecessary social gathering in which illicit drugs were present. The 6105 page 11 entry also stated that you tested positive for illicit drug use but the PI determined your use was not wrongful. The Board also noted that you acknowledged the entry and in your statement, you admitted to making poor decisions and thinking you could get away with something that you knew was wrong. The Board determined that the contested entry was written and issued according to the MARCORSEPMAN and Marine Corps Individual Records Administration Manual (IRAM). Specifically, the IRAM requires commanders to make an entry of all confirmed incidents of illegal drug use, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer (CO) signed the entry, and he/she determined that your substandard performance/misconduct was a matter essential to record, as it was his/her right to do.

Concerning your claim that you never attempted to smuggle someone on base, the Board determined that the presumption of regularity applies. The Board noted the Armed Forces Traffic Ticket and determined that, although your attempt to smuggle someone on base is not listed on the traffic ticket, there is insufficient evidence that the violations noted in your page 11 entry are not accurate. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board concluded that your CO was well within his discretionary authority to issue the counseling entry based on information he possessed regarding the incident and you have not provided sufficient evidence to overcome the presumption that he acted within his discretion. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the 6105 page 11 entry. 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,

11/9/2022



Executive Director

