



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

██████████
Docket No. 9051-22
Ref: Signature Date

██
██
██

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 3 January 2023. 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 your 20 December 2018 Administrative Remarks (Page 11) 6105 counseling entry. The Board considered your contention that the counseling entry was not in accordance with the policy because it was signed by your Company Commander and not the Battalion Commanding Officer.

The Board, however, determined that the counseling entry was written in accordance with the policy in effect at the time the counseling entry was issued. In this regard, the Board noted that Chapter 1, paragraph 1002.11 of MCO 1900.16 (MARCORPSEPMAN) defines Commander/Commanding Officer as “a commissioned officer or warrant officer who, by virtue of rank and assignment, exercises primary command authority over a military organization or prescribed territorial area that under pertinent official directives, is recognized as a “command.” Further, the Board noted that on 15 February 2019 Change 2 of the MARCORSEPMAN was published which modified the definition to a “board-selected or duly appointed commissioned officer or warrant officer who exercises special court-martial convening authority and primary command authority over a military organization or prescribed territorial area that under pertinent official directives is recognized as a “command.” This change in policy is not retroactive. The

Board thus concluded that the counseling entry does not constitute probable material error or injustice warranting its removal from your record.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

1/30/2023

A large black rectangular redaction box covering the signature area.

Deputy Director

A black rectangular redaction box covering the name of the Deputy Director.