



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

██████████
Docket No. 9143-22
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 28 March 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies, as well as the 17 February 2023 Advisory Opinion (AO) provided by the Headquarters Marine Corps Personnel Law Branch (JPL). The AO was provided to you on 22 February 2023, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove your 29 September 2022 Administrative Remarks (Page 11) counseling entry and associated rebuttal. The Board considered your contention that the statements were erroneous in nature.

The Board, however, substantially concurred with the AO and determined that the issuing officer was well within his discretionary authority to issue the counseling entry. In this regard, the Board noted that you were issued a 6105 entry counseling you for violating Article 91 of the Uniform Code of Military Justice, for contempt or disrespect toward a warrant, non-commissioned officer, or petty officer on three occasions.

The Board determined that the contested counseling entry was written and issued in accordance with the MARCORSEPMAN. Specifically, the counseling entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek

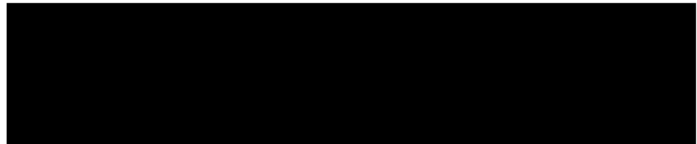
assistance, the consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal. Your commanding officer (CO) signed the counseling entry, and determined that your substandard performance/misconduct was a matter essential to record, as it was his right to do. The Board, thus determined that the CO relied upon sufficient evidence and acted within his discretionary authority when deciding that your counseling was warranted. The Board also noted that you acknowledged (signed) the counseling and in your rebuttal, you stated that the common trend in the incidents cited in the counseling is that they had been misconstrued due to a lack of perspective.

In regards to your contention that the statements were erroneous in nature, the Board determined that beyond your broad personal statement which gives your perspective of the events that took place, you provided insufficient evidence of a material error or injustice. Moreover, 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 found your evidence insufficient to overcome this presumption. 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,

4/19/2023

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Deputy Director

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