



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

██████████
Docket No. 9430-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

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 2 June 2022 Administrative Remarks (Page 11) 6105 counseling entry and associated rebuttal. The Board considered your contention that the investigation was submitted to the Staff Judge Advocate, who dismissed it due to lack of evidence. You also claim the witness statements were hearsay and were obtained during interviews.

The Board noted that you received the counseling entry for violation of the Uniform Code of Military Justice, Article 92 for violation of MCO 5354.1F following a Command Investigation, which took place in July of 2021. You acknowledged the entry and submitted a written rebuttal. In your rebuttal, you claim that you were falsely accused of sexual harassment and that the Marines retaliated against you with false allegations for holding them to standards.

Regarding your contention that the investigation was dismissed due to lack of evidence and your claims that the statements were all based upon hearsay, the Board determined that by signing the 6105 counseling, your Commanding Officer indicated that he believed it to be appropriate, using a preponderance of the evidence standard. Further, the Board noted that the issuing officer was well within his discretionary authority to issue the counseling entry, and that the entry met the

6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN). You were afforded the opportunity to rebut the counseling, and your rebuttal is filed in your official military personnel file. 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, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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

