



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

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Docket No. 102-23
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.

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 February 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.

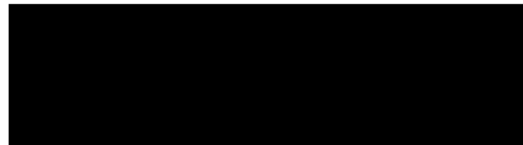
The Board carefully considered your request to amend an Administrative Remarks (Page 11) 6105 entry dated 28 July 2011. Specifically, you requested to add the following statement to the counseling entry: "I was a passenger at the time of the accident. The driver had previously borrowed the vehicle on a recurring basis in the weeks prior and I had believed his familiarity with vehicle would allow him to operate the vehicle more safely." The Board considered your contentions the 6105 as currently written "presents a nonfactual account of events by omitting key pertinent information" and "the exact language and inflection used is inappropriate for official correspondence." Further, the Board considered your contention you were led to believe, as a Private First Class with less than 90 days at your first duty station, that if you provided a statement regarding the counseling, or left the counseling without making a decision, both yourself and the driver would receive nonjudicial punishment. Lastly, you contend you were not emotionally equipped to make a decision in your best interest while being confronted with the "aggressive unprofessionalism" of a senior staff noncommissioned officer (SNCO).

The Board determined the contested 6105 of 28 July 2011 creates a permanent record of matters the issuing Commanding Officer (CO) deemed an essential part of your military history. The Board noted the 6105, which met the requirements detailed in MCO P1900.16 w/CH 2 (MARCORSEPMAN), is a valid counseling entry. Specifically, the Board noted the entry provided the opportunity to rebut the entry, which you chose not to exercise, and was appropriately issued by the CO as evidenced by his signature on the entry. The Board determined there was insufficient evidence of an error or injustice in the account of events, language, and inflection. Further, the Board determined there was insufficient evidence to support your contentions regarding the treatment of the senior SNCO during the counseling session. Lastly, the Board considered your request to add language but noted adding language to a counseling statement is not an available remedy. The Board concluded there is insufficient evidence of material error or injustice warranting the modification of the 28 July 2011 counseling entry.

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,

3/28/2023

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Deputy Director

Signed by: 