



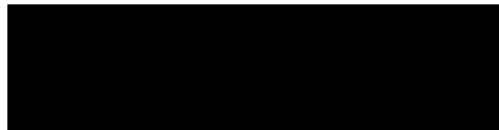
considered the rebuttal statements to the Page 11 and your detailed statement in support of your request for relief, specifically noting your contentions that you were administratively counseled, although never spoken to, by the General; denied your request to speak with a lawyer or review the investigation and dissuaded from writing a rebuttal; and eventually allowed to read the investigation on a computer and provide a second rebuttal within 24 hours. Additionally, the Board considered your contentions regarding your treatment while awaiting completion of the administrative actions, the difficulties experienced as a result, and negative effects of the accusations and administrative action. Lastly, the Board considered the statement from the co-accused Marine officer and the character statements submitted on your behalf that do not address the specific incident but describe your character.

The Board determined you have not met the burden to overcome the presumption of regularity attached to the official actions of EDCOM. Specifically, the Board determined the contested counseling entry of 4 October 2021 creates a permanent record of matters the issuing commander deemed an essential part of your military history. The Board noted the counseling entry, which met the requirements detailed in MCO P1070.12K W/CH 1 (IRAM), is a valid counseling entry. Specifically, the Board noted the entry provided the opportunity to rebut the entry, which you ultimately exercised on two occasions, and was appropriately issued by the commander as evidenced by his signature on the entry. Based on the available evidence, the Board determined the counseling was supported by the evidence. Further, the Board determined there was insufficient evidence of an error or injustice in the command's conduct before, during, or after the issuance of the counseling. Additionally, the Board noted there is no legal requirement for you to receive a copy of the underlying investigation nor a right to legal counsel prior to signing the counseling entry or submitting a rebuttal statement. Therefore, after review of the documents submitted in support of your contentions, the Board concluded there is insufficient evidence of material error or injustice warranting the removal of the counseling 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,

4/14/2023



Executive Director

Signed by: 