



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. 1051-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 21 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your Administrative Remarks (Page 11) 6105 counseling entry dated 26 July 2021. The Board considered your contentions that Marine Online extended leave remarks show that you were authorized to be absent per your commanding officer (CO). You believe the counseling entry discredits your integrity and will bruise your career as a leader and Marine.

By signing the Page 11 6105, your CO indicated that he believed it to be appropriate based on the facts and circumstances, and using a preponderance of the evidence standard. The Board thus determined that the issuing officer was well within his discretionary authority to issue the counseling entry at the time, and that the entry met the counseling requirements in accordance with the applicable regulations (Marine Corps Individual Records Administration Manual and Marine Corps Separations and Retirement Manual). Specifically, the Board noted that the entry

provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. Finally, you were afforded the opportunity to rebut the counseling and chose not to do so.

The Board noted that a Page 11 is given a presumption of regularity which requires you to provide sufficient evidence that the CO's decision was unjust or was materially in error. Despite your contentions, the Board determined that you provided insufficient evidence to rebut this presumption of regularity and in support of your contentions. In this regard, the Board took into consideration the supporting documents you provided. However, the Board determined that the Page 11 was factual at the time of issuance and there is nothing that precluded your CO from issuing the counseling entry. Further, the Board found it odd that you were also counseled for violating Article 107, UCMJ for making a false official statement, but you failed to provide any additional information on that issue. Thus, the Board was not convinced that the CO extended your leave as the MOL entry indicates and determined you provided insufficient evidence to address the issue of the false official statement. As such, the Board concluded that the Page 11 entry does not constitute probable material error, substantive inaccuracy or injustice warranting removal from your official military personnel file. 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,

3/20/2023

