



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. 1341-23

Ref: Signature Date



Dear Petitioner:

This letter 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.

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 21 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 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 16 April 2020 Administrative Remarks (Page 11) 6105 counseling entry and associated rebuttal statement. The Board considered your contention that modifications to guidelines issued in the publication that governs the Developmental Exercises (DE) for Marine Corps Recruits is regularly interpreted by the Battalion Athletic Trainers within the Recruit Training Regiment. The Board also considered your claim that on the day in question, the modifications you provided were authorized by the Battalion's Athletic Trainer along with your assertion that they were carried out in a safe and supervised manner. The Board also considered your argument that the counseling entry implies both malice and an attempt to plead ignorance as an excuse, as well as your claim that the incident was not investigated on its own merit and instead was brought to the Commanding Officer's (CO) attention while he was investigating someone else for misconduct. Finally, the Board considered your claim that this incident has damaged your professional reputation and promotability.

The Board noted that pursuant to the Marine Corps Individual Records Administration Manual (IRAM), you were issued a 6105 entry counseling you for violation of Article 92, UCMJ, specifically the unauthorized use of developmental exercises (DE) as a means of reinforcing good behavior of recruits or discouraging poor behavior, as well as the unauthorized supplementation of exercises as outlined in the Recruit Training Handbook. The Board noted that you were properly counseled and determined that the contested entry was written and issued in accordance with the IRAM. Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, and consequences for failure to take corrective action and it afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer (CO) signed the counseling entry, and he/she determined that your substandard performance/misconduct was a matter essential to record, as it was his/her right to do. The Board, thus determined that the CO relied upon sufficient evidence and acted within his/her discretionary authority when deciding that your counseling entry was warranted. Furthermore, the Board was not persuaded otherwise by your submissions, including the character letters on your behalf.

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. Finally, in regards to your claim that this incident has damaged your professional reputation and promotability, the Board determined whether or not the contested counseling entry hindered your reputation and promotability is conjecture that the Board simply could not validate. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice with the counseling entry or the associated rebuttal. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

4/11/2023

