



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

██████████
Docket No. 2310-23
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 4 April 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.

The Board carefully considered your request to remove your 27 October 2022 Administrative Remarks 6105 (page 11) counseling entry and associated rebuttal statement. The Board considered your contentions that the verbiage on the counseling entry is incorrect and implies that you were found guilty at a Nonjudicial Punishment (NJP) or court martial. The Board also considered your claim of unlawful command influence as well as your claim that the evidence in the Preliminary Inquiry (PI) is speculative, subjective, and does not meet the criteria for Article 105 of the Uniform Code of Military Justice.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a 6105 entry counseling you for violation of Article 105, Forgery, in that you did on or about 27 August 2022, without consent or authorization, replicate the signature of the Battalion Medical Officer on an official command screening checklist to facilitate the enrollment of a Marine in an advanced school. The Board also noted that you acknowledged the counseling entry and in your statement, you claim that there are inaccuracies with the PI that was conducted and that you did not: falsify a medical screening checklist, forget a medical officer's signature, intend to defraud anyone because you believed at the time that you were operating under commander's intent, submit paperwork to any

individual at SOI-W, and, lastly, you were investigated because you were honest with your chain of command about your actions. You also acknowledged that it was your intent was to get [REDACTED] enrolled in the school because you believed he was nervous/scared of the difficulty of the course. The Board determined that the contested counseling entry was written and issued according to the MARCORSEPMAN. Specifically, the counseling entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the 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 based on the PI, 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.

Regarding your claim that the counseling entry implies that you were found guilty at NJP or court-martial, the Board was not persuaded by your arguments and found no evidence, other than the reference to the UCMJ Article 105, in the counseling entry to support your contention. The Board determined the reference to the UCMJ article, by itself, does not imply you were found guilty at NJP or by a court-martial.

In regards to your claim of unlawful command influence as well as your claim that the PI is speculative, subjective, and does not meet criteria for Article 105 of the UCMJ, the Board determined your evidence insufficient to support this claim. While the Board considered the evidence you submitted in support of your contention, they concluded it was insufficient to overcome the presumption of regularity associated with the PI. 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 thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the 6105 entry and associated rebuttal from your record. 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,

4/24/2023

