



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

██████████
Docket No. 2378-23
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 15 August 2022 Administrative Remarks 6105 (page 11) counseling entry and associated rebuttal statement. The Board considered your contention that you were unjustly treated by the Battalion Inspector Instructor as well as your claim that this counseling entry is effecting your ability for promotion and reenlistment.

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 violation of Article 92, Failure to Obey an Order or Regulation, of the Uniform Code of Military Justice, in that having knowledge of a lawful order issued by the Inspector Instructor First Sergeant to not communicate with another Marine except during normal duty hours in the execution of your duties, failed to obey the same by communicating with that Marine outside normal duty hours and not in the execution of your duties. The Board also noted that you acknowledged the counseling entry and in your statement, you indicate that you were ordered not to speak to either ██████████ or ██████████ unless it was work related and not to respond if either individual contacted you. You also state that after ██████████ sent you an odd and inappropriate video you

felt a line was crossed and reported it to your chain of command. In response, a no contact order was issued. You felt that with the issuing of the counseling entry you were being reprimanded for bringing it to the attention of your leadership. However, 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 she determined that your substandard performance/misconduct was a matter essential to record, as it was her right to do. The Board, thus determined that the CO relied upon sufficient evidence and acted within her discretionary authority when deciding that your counseling entry was warranted.

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.

Regarding your claim that the counseling entry has affected your ability for promotion and reenlistment, the Board noted that your chain of command favorably recommended you for reenlistment. Further, the Board determined this is simply conjecture that the Board cannot validate. 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,

4/25/2023

