



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

██████████
Docket No. 3028-23
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.

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 25 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 12 September 2019 Administrative Remarks 6105 (page 11) counseling entry and associated rebuttal statement. The Board considered your contention that you detached from ██████████ on 11 September 2019 and, therefore, the Commanding Officer (CO) who signed the Page 11 was not authorized to do so.

You previously applied to this Board to have the 6105 entry removed from your record. A previous panel of this Board granted you partial relief after concluding you were not allowed to submit a statement due to your permanent change of station orders. Therefore, the Board granted you the opportunity to submit a rebuttal statement to your record, which you did.

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 92(x2) of the Uniform Code of Military Justice. Specifically, a preliminary inquiry substantiated that one of your drill instructors habitually conducted unauthorized incentive training which caused a large chemical burn on a recruit's knee and made several others vomit from bleach fumes. When made aware of the recruit's injury, you did not ensure the recruit sought medical attention. Additionally, by not informing your chain of command of the Drill

[REDACTED]

Instructor's misconduct, you were found to be complicit with the events that occurred. The Board also noted that you acknowledged the counseling entry and, in your statement, you described the morning the incident occurred and that the recruit's injuries were consistent with normal injuries sustained during grass week and firing week. You also indicated that at no time did any recruit or drill instructor report drill instructor misconduct and that the incident was not reported until later. 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 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.

After careful consideration of your application for reconsideration and review of the entire record, the Board determined the 6105 entry remains valid. The Board considered your contention that the 6105 entry was not issued in accordance with policy because you were no longer attached to [REDACTED]. The Board, however, noted that according to the Marine Corps Total Force System your official detach date was on 12 September 2019 which was the same date as the 6105 entry was issued. 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. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the 6105 entry or the 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely, _____
5/15/2023

[REDACTED]

Deputy Director
Signed by [REDACTED]