



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. 3094-23
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 11 May 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 the 23 November 2021 Administrative Remarks 6105 (page 11) entry and associated rebuttal statement. The Board considered your contention that your administrative separation (ADSEP) Board rendered a verdict declaring that there is no basis, therefore, the counseling entry for a Prohibited Activities and Conduct (PAC) order violation should be removed.

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 due to a command investigation finding that you sexually harassed and harassed the "Marine" within the █. The Board also noted that you acknowledged the entry and in your statement, you argued that the counseling entry was not in compliance with the PAC order. You were not offered a meaningful opportunity to review the completed command investigation or to submit an appeal within 30 days. The Board determined that the contested entry was written and issued according to the MARCORSEPMAN. Specifically, the 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 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 noted that your ADSEP Board found that the preponderance of evidence did not prove the acts or omissions alleged and recommended your retention in the Marine Corps. The Board also noted that an ADSEP Board is administrative in nature with the fundamental purpose of determining a service member's suitability to serve on the basis of conduct and the ability to meet and maintain the required standards of performance. The Board determined that the administrative separation process is not intended as, nor does it function as a method to overturn or invalidate other Marine Corps procedures or administrative actions. Although your ADESP Board did not find sufficient evidence to warrant separation from the Marine Corps, the Board also determined that the ADSEP Board finding does not invalidate the counseling entry, nor is the ADSEP Board's finding binding on your CO. Moreover, it is not a material error or injustice for two separate fact-finding bodies to arrive at different conclusions. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

5/26/2023

