



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



Docket No. 3930-23
Ref: Signature Date



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 applications on 30 May 2022. 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your 30 January 2023 Administrative Remarks 6105 (page 11) counseling entry and associated rebuttal. The Board considered your contention that you were improperly issued the counseling entry for not returning to work while attending the Transition Readiness Seminar (TRS), which allows you to be in a Permanent Temporary Additional Duty (PTAD) status. The Board also considered your assertion that the command lost the original counseling entry and that you were not given the counseling entry until you met with the Commanding Officer (CO) for signature. The Board also considered your assertion that, although you signed the counseling on 30 January 2023, it was not placed in your official record until April/May of 2023.

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, failure to obey an order or regulation and Article 86, Absent without leave. Specifically, the Board noted that the counseling entry states that you were outside local boundaries and not on leave on your own accord. Further, the counseling entry states that you decided to attend virtual TRS from your home in [REDACTED] without proper authorization from your chain of command. The Board also noted that you acknowledged the counseling entry and, in your statement, you assert that attendance at TRS is mandatory for transitioning Servicemembers and, TRS shall be the appointed place of duty for the Marine for the time specified, Marines are exempt from normal duty for the full 24 hour period of each workshop or briefing day, including 12 hours immediately preceding and following TRS.

However, the Board noted that pursuant to MCO 1050.3J, liberty limits do not include permission to leave the general vicinity of the base or station. Moreover the Board noted that PTAD is administrative absence that is approved at the commander's discretion based on mission requirements, and is not an entitlement. Thus, 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, 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.

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 concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

6/8/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]