



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

██████████
Docket No. 7766-23
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 26 September 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 21 October 2021 Administrative Remarks (Page 11) 6105 counseling entry and associated rebuttal statement. The Board considered your claim that you were found innocent by the ████████████████████, ████████████████████, ████████████████████ and your Administrative Separation Board (ASB) was closed.

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 a Prohibited Activities and Conduct Order violation. Specifically, Article 92 of the Uniform Code of Military Justice, for failure to obey an order or regulation, in that you repeatedly contacted female Marines via text message requesting inappropriate pictures. The Board also noted that you acknowledged the counseling entry and in your 22 October 2021 statement, you claim the basis for the counseling entry is false and that any encounter you had with the victim occurred almost a year prior. You further argue that you did not message or have any inappropriate conversations with a lance corporal.

The Board, however determined that the contested counseling entry was written and issued in accordance with 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) determined you're your deficiency documented in the counseling was a matter essential to record in your official military personnel file. The Board, thus determined that the CO relying on a preponderance of evidence standard, acted within his discretionary authority when he issued the counseling.

In regards to your claim that the [REDACTED], [REDACTED] found you innocent, the Board noted that an ASB is administrative in nature with the fundamental purpose of determining your suitability to serve on the basis of your conduct and your ability to meet and maintain the required standards of performance, and does not determine guilt or innocence. The Board further noted the ASB's findings are not binding on the CO's decision to issue the counseling. Although [REDACTED], [REDACTED] directed that you be retained and closed your case, the Board determined you provided insufficient evidence to support your claim that you were found not guilty. 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,

10/3/2023

