



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



Docket No. 9660-23
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 28 November 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 6105 counseling entry dated 4 March 2021, and your non-recommendation for promotion and 12-month promotion restriction entry dated 4 March 2021. The Board considered your contentions that the entries were not added at the proper level and were done at the O-5 level, and should not have been added to your official military personal file (OMPF). You presented as evidence, a letter submitted by your current commanding officer (CO) in support of removal of your 6105 counseling entry dated 4 March 2021.

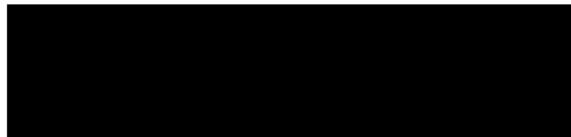
The Board noted that you were issued a 6105 counseling entry, counseling you for violation of Article 120 of the Uniform Code of Military Justice, and informing you that you were being processed for administrative separation. Specifically, for allegedly committing a sexual act upon an adult without the consent of the other person. The Board also noted that you were issued a non-recommendation for promotion and 12-month promotion restriction entry. The Board also noted that you acknowledged these entries and elected to submit statements, however neither statement were included in your application nor are they part of your OMPF. The Board determined that the issuing officer was well within his/her discretionary authority to issue these entries, and the entries were procedurally correct as they met the requirements in accordance

with the Separation and Retirement Manual, Marine Corps Individual Records Administration Manual, and Enlisted Promotions Manual; respectively. Moreover, your CO at the time signed the 6105 counseling entry, and he/she determined that your misconduct was a matter essential to record, as it was his/her right to do. The Board determined that your CO acted properly and within his/her discretionary authority when determining that your misconduct warranted the 6105 counseling entry, and non-recommendation for promotion and 12-month promotion restriction entry. 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, in making their decision, acknowledged the evidence you provided, specifically your current CO's letter and found the correspondence unconvincing. Furthermore, the Board determined that despite your objections, these entries are valid. The Board further noted that you provided no creditable evidence to overturn the issuing officer's counseling, nor that the counseling was erroneous, inaccurate, or unjust at the time of issuance. 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,

12/17/2023

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Deputy Director

Signed by: 