



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



Docket No. 10325-24
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 application on 16 January 2024. 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 for reconsideration to remove all adverse material from your official record. The Board considered your contention that the adverse materials should be removed based upon the findings of a Board of Inquiry (BOI). The Board also considered your assertion that the BOI Board Members were very senior officers with a total of 64 years combined service as well as your contention the counseling entry was issued prior to the findings of the BOI.

After careful consideration of your application for reconsideration and review of the entire record, this Board affirmed its previous decision to deny relief. In this regard, the Board noted that a BOI is administrative in nature with the fundamental purpose of determining your suitability to continue to serve and its purpose is not to substantiate or determine guilt. Furthermore, the Board noted although you provided a personal statement with numerous enclosures for consideration, your request lacked any evidence the adverse material contained any errors or an injustice.

In regards to your contention that the Commanding General (CG) issued the counseling entry prior to the findings of the BOI, the Board noted pursuant to the Marine Corps Individual Records Administration Manual (IRAM), you were properly counseled and determined that the contested counseling entry was written and issued in accordance with the IRAM. The Board also noted that you signed the counseling entry and were afforded the opportunity to provide a statement, which you did. Moreover, the CG 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 CG relied upon sufficient evidence and acted within his/her discretionary authority when deciding that your counseling entry was warranted.

In regards to your contention the counseling entry was issued prior to the results of the BOI, the Board determined the CG's decision to issue you a counseling entry is mutually exclusive of the BOI proceedings. 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 removal of the adverse material 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.

Sincerely,

2/6/2024

