



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. 10380-23
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 19 December 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 11 February 2021 6105 counseling entry and associated rebuttal. The Board considered your contention the counseling states you are “professionally incompetent” although your fitness report covering that period did not indicate you received any derogatory material or disciplinary action, and was not adverse. The Board also considered your assertion that you received a Certificate of Commendation for “superior performance in the execution of your duties while serving as Career Planner from October 2020 to April 2021.”

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued the 6105 counseling for violation of the Uniform Code of Military Justice, Article 92, failure to obey an order or regulation and Article 107, false official statement. The Board also noted you acknowledged the counseling and in your rebuttal, you admitted to the misconduct and accepted responsibility for your actions. Additionally, the Board noted the counseling 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 and he determined

that your dereliction of duty was a matter essential to record. The Board thus determined that the CO relied upon sufficient evidence and acted within his discretionary authority when deciding that the counseling was warranted.

Regarding your contention that your fitness report did not indicate you received derogatory material or disciplinary action, and was not adverse, the Board noted pursuant to MCO 1610.7, Performance Evaluation System (PES) Manual, receipt of a 6105 counseling does not automatically constitute derogatory material on the next fitness report. Moreover, it is the responsibility of the reporting officials to consider the substance of the counseling and provisions of the PES Manual to determine if, in their judgment, the entry is sufficiently derogatory in nature to render the fitness report adverse.

Regarding your assertion that you received a Certificate of Commendation for superior performance of your duties as Career Planner, the Board noted that it was awarded in recognition of your performance in the execution of your duties over a seven-month period of time, and receipt of a Certificate of Commendation does not excuse your misconduct or invalidate the contested counseling.

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,

1/19/2024

