



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



Docket No. 10496-23
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 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 application, 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 Administrative Remarks (page 11) counseling entry dated 7 February 2022. The Board considered your contentions that the page 11 was prematurely issued prior to your civil court case, which was later dismissed due to inconclusive evidence. You believe the page 11 mentioning the dismissed driving while intoxicated (DWI) charge should be removed. You also contend that the page 11 indicates a court date 10 months before the date of the incident, which was originally set for 14 February 2022, but notes that it was to take place on 14 February 2021.

The Board noted that pursuant to paragraph 6105 of the MARCORSEPMAN and the Marine Corps Individual Records Administration Manual, you were issued a page 11, counseling you for your failure to maintain lane control and DWI, both of for which you were cited. The Board also noted that you acknowledged the entry and the entry was signed by your commanding officer (CO). The Board further noted that you submitted a statement regarding and took that into consideration. The Board determined that the contested page 11 entry was written and issued according to regulations. Specifically, the 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 CO signed the entry, and he/she determined that your misconduct, was a matter essential to record, as it was his/her right to do. Furthermore, 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, to include your rebuttal statement and, despite your objections, determined that the counseling entry is valid. The Board took into consideration the decision of the State of North Carolina to dismiss your case; however, determined that dismissal does not exonerate you nor invalidate the underlying basis for misconduct. Further, the Board determined the Page 11 is factual as to the events that occurred on that particular day. The Board thus found your evidence insufficient to overcome this presumption. The Board also noted the administrative error you identified regarding your court date; however, determined this did not make the page 11 invalid. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the page 11 entry. 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,

2/14/2024

