



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. 10541-23
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 applications on 23 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 to remove your Administrative Remarks (Page 11) 6015 counseling entry dated 9 July 2023 and associated rebuttal. The Board considered your contentions that the entry is improper and erroneous documentation on file. You claim you were counseled by the commanding officer (CO) and signed the counseling, thereby invoking your right to submit a rebuttal. You further claim the rebuttal, with supporting enclosures, was returned within 5 working days on 14 July 23 as instructed. However, the Page 11 6105 in your official military personnel file (OMPF) is not the document you signed and only a portion of your rebuttal is included.

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 violation of Articles 89 and 107, UCMJ. Specifically, for behaving with disrespect towards a superior commissioned officer, lying about a delivery, and falsifying documents. The Board also noted that you did not sign the entry; however submitted a rebuttal statement. The Board determined that the contested entry was written and issued according to the MARCORSEPMAN. 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. The Board determined that your CO acted properly and within his discretionary authority when determining that your misconduct warranted the page 11 entry. 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, in making their decision, acknowledged your contentions and the evidence you provided and, despite your objections, determined that the counseling entry is valid. Furthermore, although not signed by you, the Board determined that your rebuttal statement is sufficient evidence that you acknowledged the entry and elected to submit a statement. The Board therefore found your evidence insufficient to overcome this presumption. 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

