



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. 431-24
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 22 February 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 the Administrative Remarks (Page 11) 6105 counseling entry dated 17 January 2023 and the associated rebuttal from your Official Military Personnel File (OMPF) because the issuance of the entry does not allow for a fair assessment of your performance and should ultimately be removed for "several substantial reasons." Specifically, you contend the Page 11 does not address a specific violation of the Uniform Code of Military Justice (UCMJ) and the deficiencies cited were related to "negligent screening practices" but not a "clear breach of a specific UCMJ article." You further contend the recommended corrective actions do not align with the "nature of a 6105 entry, which typically addresses more serious misconduct." Additionally, you contend any mistakes you made were "part of the learning curve rather than willful negligence." Lastly, you contend the credibility of the Commanding Officer (CO) who issued the counseling entry is "questionable" because you assert he was subsequently relieved for lack of judgment.

The Board, however, determined the counseling entry of 17 January 2023 creates a permanent record of matters your CO deemed significant enough to document. The Board also determined the entry met the 6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN). Specifically, the Board noted the entry provided written notification

concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You availed yourself of the opportunity to rebut the counseling entry by providing a rebuttal statement on 17 January 2023, which has been properly added to your OMPF alongside the counseling entry. Further, the Board noted the entry was appropriately issued by a CO as evidenced by his signature on the entry. The Board carefully considered your contentions but determined the CO has wide discretion regarding the subject matter of a counseling entry, and it is within his discretionary authority to determine if/when a 6105 entry is warranted. Further, the conduct described within the entry is not required to “breach” a specific UCMJ article. Lastly, the Board noted your assertion the issuing CO is “questionable” but concluded you provided insufficient evidence to overcome the presumption of regularity that his decision was unjust or materially in error. The Board concluded there is insufficient evidence of material error or injustice warranting the removal of the 17 January 2023 counseling 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,

3/11/2024

