



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

██████████
Docket No. 1952-24
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 12 March 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 27 January 2023 Administrative Remarks 6105 (page 11) counseling entry and associated rebuttal statement. The Board considered your contention that the counseling entry states contains false information and states that you violated Article 92 of the Uniform Code of Military Justice (UCMJ). The Board also considered your contention that you did not receive an adverse fitness report as well as your contention that the Commanding Officer (CO) refused to charge you, which would have allowed you to challenge the evidence and/or statements against you.

However, 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 Article 92, UCMJ. Specifically, a Preliminary Inquiry (PI) substantiated allegations that you engaged in an unduly familiar relationship with a subordinate that did not respect the differences in rank and was prejudicial to good order and discipline. The Board also noted that you acknowledged the counseling entry and, in your statement, you denied the allegations stating that there was never a compromise in the leader-subordinate, teacher-scholar, or mentor-mentee relationship between this Marine or any of your other Marines.

Next, the Board determined the contested counseling entry was written and issued according to the MARCORSEPMAN. Specifically, the counseling 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 commanding officer (CO) 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 CO relied upon sufficient evidence and acted within his/her discretionary authority when deciding that your counseling entry was warranted.

In regard to your contention that you did not receive an adverse fitness report, the Board noted that pursuant to MCO 1610.7A (PESMAN), receipt of a 6105 counseling entry does not automatically constitute derogatory material on the next fitness report and is at the discretion of the reporting officials.

Regarding your contention that the CO refused to charge you, as well as your contention that the PI verbiage is different than the counseling entry, the Board determined that the CO indicated in the PI endorsement that he had sufficient evidence from the PI to warrant the issuance of the counseling 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 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 counseling entry 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,

3/26/2024

