



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. 2224-24
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 19 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 4 December 2023 Administrative Remarks 6105 (page 11) counseling entry from your record. The Board considered your contentions that there was insufficient evidence to charge you with violation of Article 92, of the Uniform Code of Military Justice (UCMJ), as well as your claim that the command issued you the counseling entry based upon toxic leadership although the Investigating Officer (IO) recommended no further action and there was no findings of this in the investigation. The Board also considered your contention that, at the time the investigation occurred, you were dealing with separation anxiety and depression from the relocation of your newborn son and wife due to a family emergency, the investigation occurred shortly after their departure, the command was aware of your situation, and the investigation was worsened your mental health issues.

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 failure to properly lead, mentor, and train your Marines. After reviewing the Command Investigation, [the Commanding Officer] found your leadership style to be ineffective, demeaning, and counter to good order and discipline, resulting in a toxic work environment within your section. You signed the counseling entry, the Board noted although you elected to submit a statement, the Board found no evidence of a statement, and you provided none. Thus, the Board determined

that 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.

Regarding your contention that there was insufficient evidence to charge you with violation of Article 92 of the Uniform Code of Military Justice (UCMJ), and your claim that the IO recommended no further action, the Board noted that the IO determined that you “displayed traits of toxic, unfair, and weak leadership” and an “abuse of authority.” 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.

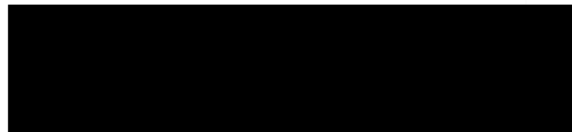
Regarding your claims of mental health issues, other than your statement, you provided insufficient evidence as to how this would excuse your conduct. Further, the Board noted you provided no evidence to substantiate these contentions. Thus, the Board determined there was insufficient evidence to conclude that your mental health issues either contributed to your misconduct or excused it.

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 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,

4/1/2024



Executive Director

Signed by:

