



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

█  
Docket No. 2637-24  
Ref: Signature Date

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Dear Petitioner:

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 26 March 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 15 June 2023 Administrative Remarks 6105 (page 11) counseling entry as well as your request to remove the 6 July 2023 Administrative Remarks (Page 11) counseling entry. The Board considered your contentions that you were acquitted by Special Court Martial (SPCM) and found not guilty regarding the alleged offense of possessing or using cocaine, which affirms your innocence and undermines the basis for any disciplinary action stemming from the incident.

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 92 and 112a, of the Uniform Code of Military Justice (UCMJ). Specifically, On 27 April 2023, you provided a urine sample that tested positive for cocaine, an unauthorized and illegal substance. You signed the entry, the Board noted although you elected to submit a statement, the Board found no evidence of a statement, and you provided none. 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. 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 noted, too, that pursuant to the Marine Corps Individual Records Administration Manual (IRAM), on 6 July 2023, you received a counseling entry that it was unlawful to possess, ship, transport, or receive a firearm or ammunition for personal use for a period of 12 months. The Board noted you were properly counseled and determined that the contested counseling entry was written and issued in accordance with the IRAM. Specifically, the counseling entry provided written notification concerning your deficiencies and it afforded you the opportunity to submit a rebuttal. You signed the entry, the Board noted although you elected to submit a statement, the Board found no evidence of a statement, and you provided none.

In regard to your contention that you were found not guilty at SPCM, the Board determined that the CO relied upon sufficient evidence (e.g. a positive urine sample) and acted within his/her discretionary authority when deciding that your counseling entry was warranted. Further, the Board noted that you do not have to be found guilty at court martial for the CO to determine a counseling entry is warranted. 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 entries from your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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

