



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

█
Docket No. 2755-24
Docket No. 2757-24
Ref: Signature Date

█
█
█

Dear Petitioner:

This is in reference to your applications 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 applications, 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 applications have been denied.

A three-member panel of the Board, sitting in executive session, considered your applications on 25 April 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 determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove the Administrative Remarks (Page 11) 6105 counseling entries dated 9 December 2022 and 23 July 2023 with the corresponding rebuttal statements. You contend that at the time of the entries, you had recently submitted a complaint on your staff noncommissioned officer (SNCO) regarding mistreatment of subordinates. You further contend the same SNCO retaliated against you by referring multiple allegations against you with the ultimate goal of trying to get you separated from the Marine Corps. Additionally, you contend that when you raised the issue with your "next higher form of leadership," you were told "if there was an issue with the outcome to submit for BCNR and let them handle it." You also contend the "articles [you were] charged with were not met." Lastly, you contend the counseling entry of 23 July 2023 was not signed by the presiding Commanding Officer (CO), a Lieutenant Colonel, but was instead signed by a Captain.

The Board, however, determined the counseling entries create a permanent record of matters your CO deemed significant enough to document. The Board also determined the entries met the 6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN). Specifically, the Board noted the entries 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 reasonable opportunity to undertake the recommended corrective action. The Board also noted you availed yourself of the opportunity to provide rebuttal statements, and in your statements, you provided important context for those reading your record to consider, to include full discussion of your contention the elements of the offenses were not met. Further, the Board noted the 9 December 2022 entry was appropriately issued by a CO as evidenced by his/her signature on the entry. The Board considered your contention the 23 July 2023 entry was not signed by the “presiding” CO. The Board noted the MARCORSEPMAN, for the purpose of issuing a 6105 counseling entry, defines Commander/CO as, “a board selected or duly appointed commissioned officer...who...exercises special court-martial convening authority and primary command authority over a military organization...” The Board, however, determined there is insufficient evidence to overcome the presumption of regularity and establish that the issuing officer does not meet the criteria as outlined by the MARCORSEPMAN for a 6105 retention warning. 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/her discretionary authority to determine if/when a 6105 entry is warranted. The Board concluded there is insufficient evidence of material error or injustice warranting the removal of the contested counseling entries.

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,

5/17/2024

