



report for the reporting period ending on 31 July 2023. Thus, the Board 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 claim that you were found not guilty by the ADSEP Board, the Board noted an administrative separation board functions as an administrative rather than a judicial body. Accordingly, in the board's proceedings, other than with respect to privileges, the strict rules of evidence governing trials by court-martial are not applicable. Therefore, the ADSEP Board's finding of no basis for separation do not automatically negate the Commanding Officer's (CO) conclusion that you committed misconduct. Moreover, the Board determined that the ADSEP board is a separate process with the fundamental purpose of determining your suitability to serve on the basis of your conduct and ability to meet and maintain the required standards of performance and does not determine your guilt or innocence. Thus, the Board determined that the ADSEP board's findings do not invalidate the counseling entry and that the allegations were properly adjudicated by your command. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the counseling entry in question 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,

4/16/2024

