



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

██████████
Docket No. 3089-24
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 16 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 carefully considered your request to remove your 12 October 2022 Administrative Remarks 6105 (page 11) counseling entry as well as the 11 October 2022 Notification of Separation Proceedings from your Official Military Personnel File (OMPF). The Board considered your claim that all charges were dropped.

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 violating Article 120, Sexual Assault of the Uniform Code of Military Justice (UCMJ). You signed the counseling entry and were afforded the opportunity to submit a statement. 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. 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.

In regards to your claim that “all charges were dropped,” the Board noted that you provided the Commanding General (CG) Endorsement Letter concerning the Commanding Officer (CO) [REDACTED] recommendation for Administrative Discharge dated 29 June 2023. In this regard, the Board noted, although the CG directed that you be retained, that decision does not automatically negate the Commanding Officer’s (CO) contradictory conclusion that you committed misconduct since the purpose of the Administrative Separation Board is to determine your suitability to continue to serve and does not determine your guilt or innocence. Therefore, 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.

In regards to your request to remove the CO, [REDACTED], Notification of Separation Proceedings Letter dated 11 October 2022, the Board determined you must exhaust your administrative remedies for removal of any administrative separation documents and must contact Headquarters, Marine Corps (MMPB-22) via e-mail (smb.manpower.mmrp-20@usmc.mil) to have the document removed. In your e-mail, provide your full name and EDIPI, and specifically identify the document(s) and the folders in which the documents reside.

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,

5/9/2024

