



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

██████████
Docket No. 4351-24
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 30 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 reconsidered your request to remove your 7 February 2023 Administrative Remarks 6105 (page 11) counseling entry as well as your associated rebuttal statement. The Board considered your contention the counseling entry is incomplete and does not meet the requirements for a 6105 in accordance with the Marine Corps Separation and Retirement Manual (MARCORSEPMAN); specifically, it does not include a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action as required. Further, you assert this counseling is erroneous, invalid, and a hindrance to your career progression.

A previous Board (Docket No. 2793-23) determined your request to remove the counseling entry was not warranted. In this regard, the Board noted your Commanding Officer (CO) determined your substandard performance/misconduct was a matter essential to record, as it was his/her right to do. Thus, the previous Board determined the CO relied upon sufficient evidence and acted within his/her discretionary authority when deciding your counseling entry was warranted.

After careful consideration of your application for reconsideration and review of the entire record, this Board reached the same conclusion. The Board substantially concurred with the

previous Board's decision and determined the requested relief is not warranted. In this regard, the Board noted you contend the counseling entry was not written pursuant to the MARCORSEPMAN because it does not include a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action as required. However, the Board noted the counseling entry is written according to subparagraph 3.e.(2) of the applicable policy. Further, the Board noted whether your CO intended to issue the counseling entry to "warn a Marine who is or is not currently being processed for administrative or judicial action" is a harmless administrative error that does not invalidate the counseling entry.

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,

5/21/2024

