



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

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Docket No. 5808-24  
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 4 June 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 the 4 March 2021 Administrative Remarks 6105 and promotion non-recommendation (Page 11) entries. The Board considered your contentions that the counseling entries were entered into your Official Military Personnel File (OMPF) before the investigation was complete and without proof of any wrongdoing. You also contend the counseling entries are for the same case but contain different verbiage. You claim the counseling entries were added due to an administration error and the Commanding Officer (CO) who issued the entries provided a written statement in favor of removing the counseling entries due to the administration separation (ADSEP) board's recommendation for retention. Furthermore, the Commanding General who had the final say in your retention process stated that you should be retained after reviewing the investigation.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued two 6105 entries counseling you for "committing a sexual act upon an adult . . . without the consent . . . in violation of Article 120 during September 2019." The Board also noted you were notified that you are eligible but not recommended for promotion due to your pending ADSEP. You acknowledged each of the

entries and elected to submit a statement, however there is no evidence of a statement in your OMPF. The Board determined that you were properly counseled and the contested counseling entries were written and issued in accordance with the MARCORSEPMAN and Marine Corps Enlisted Promotion Manual. Specifically, the counseling entries provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, consequences for failure to take corrective action, and afforded you the opportunity to submit a rebuttal. Moreover, your CO, acting within his discretionary authority signed the entries and determined your misconduct was a matter essential to record as it was his/her right to do.

The Board noted that your ADSEP board unanimously found that a preponderance of evidence did not prove any of the acts or omissions alleged warranted your separation from the Marine Corps. The Board also noted the correspondence from your former CO but found it unconvincing. In this regard, your CO's relied solely upon the findings by your ADSEP board and your retention in the Marine Corps as justification in support of removing the counseling entries. The Board determined that your CO's justification was insufficient and failed to address the underlying misconduct that formed the basis for the counseling entries. The Board also determined that ADSEP boards are administrative in nature with the fundamental purpose of determining your suitability to serve based on conduct and the ability to meet and maintain the required standards of performance. The ADSEP process is an administrative employment tool and is not intended as, nor does it function as a method to overturn or invalidate properly adjudicated administrative actions. Although your ADSEP board did not find sufficient evidence to warrant separation, that finding does not affect the validity of your counseling entries. Moreover, the MARCORSEPMAN requires the issuance of a 6105 entry prior to processing a service member for ADSEP. The Board thus 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,

6/6/2024

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Deputy Director

Signed by: █