



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

██████████
Docket No. 6014-24
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 11 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 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 11 May 2023 Administrative Remarks 6105 (page 11) counseling entry. The Board considered your contentions that the counseling entry is unlawful because you had previously been corrected and reprimanded for the incident via a Non-Punitive Letter of Caution (NPLOC). The Board also considered your claim that, at the time the counseling entry was signed, you were not mentally coherent or stable and were undergoing intense medical/psychiatric treatment for a Traumatic Brain Injury "TBI." This caused you to be incapable of understanding what actions the command was taking against you. You further assert that you are seeking the opportunity to join the counterintelligence field but the counseling entry will affect your ability to execute a transfer (lateral move), as well as your claim that it may also affect your chances for reenlistment.

Regarding your contention the counseling was unlawful because you had previously been corrected via NPLOC, the Board determined your claim to be without merit. In this regard, the Board noted pursuant to JAGMAN 5800.7F, the purpose of a NPLOC is to convey necessary information to remedy a deficiency in conduct or in the performance of duty and that a counseling entry may refer to facts or circumstances in relation. In your case, the Board determined it was reasonable to presume that you had previously broken curfew and been given

a warning (e.g. NPLOC) and that, when you subsequently broke curfew again, the CO determined the issuance of the counseling entry was warranted.

Regarding your contention that you were mentally incoherent and were undergoing medical treatment for TBI which rendered you incapable of understanding what actions the command was taking against you, the Board determined other than your personal statement, you provided insufficient evidence to support these claims.

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 Violation of Article 92, Uniform Code of Military Justice (UCMJ), specifically, disobeying U.S. Marine Corps Forces Japan order and not adhering to established curfew hours for E-5 and below. You signed the entry, the Board noted although you elected to submit a statement, the Board found no evidence of a statement, and you provided none. 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. The Board thus determined that the CO relied upon sufficient evidence and acted within his/her discretionary authority when deciding that your counseling entry was warranted.

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,

6/25/2024

