



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

█  
Docket No. 6456-24  
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 16 July 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 20 May 2016 Administrative Remarks (Page 11) 6105 counseling entry. You contend the counseling entry was not signed by a Commanding Officer (CO) and is not valid. The signer of the counseling entry was a Company Commander, Major/O-4. You claim the Marine Corps Separation and Retirement Manual (MARCORSEPMAN) defines Commander/Commanding Officer as, "a board selected or duly appointed commissioned officer or warrant officer who, by virtue of rank and assignment and per reference (ao) United States Navy Regulations 1990 W/CH 1, exercise special court-martial convening authority and primary command authority over a military organization or prescribed territorial area that under pertinent official directives is recognized as a "command." You also claim a Major/Company Commander is not considered a "Commander/Commanding Officer."

The Board noted that pursuant to paragraph 6105 of the MARCORSEPMAN, you were issued a 6105 entry counseling you for violating Uniform Code of Military Justice (UCMJ) Article 134 (80) for the negligent discharge of a M45A1 service pistol when clearing your duty pistol in the clearing room. The Board also noted that you acknowledged the entry and elected not to make a

statement. The Board determined the contested entry was written and issued according to the MARCORSEPMAN. Specifically, the 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 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 noted your reference to the current MARCORSEPMAN policy regarding the definition of a "Commander/Commanding Officer;" however it determined your reliance on the current version of the MARCORSEPMAN is misguided. In this regard, at the time your counseling entry was issued, the Board determined it was properly signed by an individual with authority to issue the counseling entry. The Board noted that the current change to the MARCORSEPMAN was effective 15 February 2019 and is not retroactive. Thus, the Board determined it does not invalidate your contested counseling entry. Moreover, the Board found no evidence negating the underlying misconduct that established the basis for the counseling entry. 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,

7/30/2024

