



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. 8821-24
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 applications on 10 September 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 26 February 2020 Administrative Remarks (Page 11) counseling entry for a tattoo that was not in accordance with existing Marine Corps policy. The Board considered your contentions that, due to the ambiguity of the previous tattoo policy and subsequent removal of the tattoo policy, the counseling entry should be removed from your official military personnel file (OMPF). You further contend that your command determined that, since you were able to cover both tattoos individually with your hand, the tattoos were within regulations but the counseling entry was still submitted to your OMPF. You further assert that, in October of 2021, the tattoo policy changed allowing tattoos on any area of the body.

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 of a violation of article 92 of the Uniform Code of Military Justice (UCMJ). Specifically, the Marine Corps Tattoo Policy per Marine Corps Bulletin (MCBUL) 1600 dated 2 June 2016 and the Marine Corps Uniform Regulations Order.

The Board determined 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. 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.

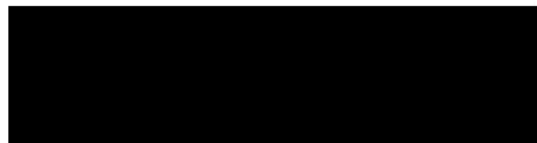
In regard to your contention that your command determined the tattoos were within regulations but still submitted the counseling entry, the Board observed that, other than your personal statement, you provided no evidence to support your claim. The Board also noted, according to the Marine Corps Tattoo Policy, Marines who fall out of compliance with the tattoo policy after the baseline period should receive a counseling entry documenting their tattoo(s). Moreover, the Board determined by signing the counseling entry your CO indicated that he believed it to be appropriate based on the tattoo policy at the time of issuance. Finally, the Board considered your contention the policy for tattoos changed in October of 2021 allowing tattoos in any area of the body; however, the Board further determined you were issued the counseling entry according to relevant policy at the time and that the change in policy is not retroactive.

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 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,

9/25/2024

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Executive Director

Signed by:

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