



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. 9921-24
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 29 October 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove the 12 December 2022 Administrative Remarks (Page 11) 6105 counseling entry. You also request permission to submit a request for remedial consideration for promotion to Staff Sergeant. The Board considered your statement and contention that the counseling entry is inaccurate and completely incorrect. You also contend that other dates on the security container certification were left blank, yet no one was held accountable and the rebuttal you submitted was not uploaded to your record. You claim that you have a statement from the Marine who was responsible and from Staff Non-Commissioned Officers (SNCOs) regarding the command's duty policy. You also claim that you and the responsible individual were ignored when presenting the facts that occurred.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a Page 11 entry counseling you for failing to sign off on the security container check sheets when you were posted for duty on 7 December

2022. On 9 December 2022 you relieved yourself from duty without approval and, on 11 December 2022, you went back and falsified check-in times and initials on the security container check sheet for 7 and 10 December 2022. The Board also noted that you acknowledged the entry and you elected to submit a statement; however, no statement was found in your record. The Board determined that 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 determined that your substandard performance was a matter essential to record, as it was with his/her discretionary authority to do.

The Board carefully considered the statements provided; however, the Board found them unpersuasive and insufficient to conclude that your counseling entry was unwarranted. While your peers may believe you were wrongfully accused, the Board determined that your CO was best situated as the fact-finding body to weigh the totality of the circumstances and to determine that your counseling entry was warranted. Concerning your purported rebuttal statement, the Board noted that you had five working days to submit your statement. The Board found no evidence of the purported statement or that your command failed to submit your statement for inclusion in your record, and you provided none. Concerning your command's actions regarding missing dates on the security container certification, the Board found your contention insufficient to find that your counseling entry was unwarranted. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers, in the absence of substantial evidence to the contrary, the Board 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.

Concerning your request for permission to request remedial consideration for promotion, the Board determined that you must exhaust your administrative remedies with the Marine Corps by submitting a request to the Enlisted Promotions Branch in accordance with MCO P1400.32D.

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,

11/14/2024

