



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

█  
Docket No. 10178-24  
Ref: Signature Date

█  
█  
█

Dear █,

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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

The Board carefully reconsidered your request to remove your 10 July 2023 Administrative Remarks (page 11) 6105 counseling entry as well as your associated rebuttal statement dated 13 July 2023. The Board considered your contentions that the counseling entry [contains] inaccurate information, and the counseling does not pertain to punitive measures outlined for Article 98 (Misconduct as a prisoner) of the Uniform Code of Military Justice (UCMJ). You further contend that the article mentioned is for non-compliance with the procedural rule pertaining to Article 131f of the UCMJ.

However, the Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN) you were issued a 6105 counseling you for violation of Article 98, noncompliance with procedural rule. Specifically, on 28 June 2023 “during a live fire event it was noticed that the PC GEN III flak system some Marines were wearing were in an unauthorized configuration. Later it was found that you instructed Marines to remove the soft armor of the PC GEN III flak jacket. This action demonstrated poor judgment and decision-making skills. Specifically, the instruction you gave on an unauthorized configuration reduced the [the] ballistic integrity of the system and the protection it provides to the individual Marine, Unsatisfactory performance of duties resulted in you being relieved of your duties as Platoon Sergeant for 3rd platoon. This type of conduct shows poor judgment and complete disregard to

procedural rules.” The Board noted you signed the counseling entry and elected to submit a rebuttal statement.

In regard to your contentions that the counseling entry contains inaccurate information and improperly lists Article 98 of the UCMJ which does not pertain to the acts that occurred, the Board noted whether your commanding officer (CO) inaccurately referenced the wrong article is a harmless administrative error that does not invalidate the counseling entry. Therefore, the Board determined that the contested counseling entry was written and issued according to the MARCORSEPMAN. Moreover, your CO signed the counseling entry, and he or she determined your substandard performance was a matter essential to record, as it was his or her right to do. The Board thus determined the CO relied upon sufficient evidence and acted within his or her discretionary authority when deciding that your counseling entry was warranted.

Likewise, 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,

11/20/2024

