



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

██████████
Docket No. 10367-24
Ref: Signature Date

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████████████████████

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 7 January 2025. 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 12 October 2023 Administrative Remarks (Page 11) counseling entry. Specifically, you claim the counseling entry should be removed due to your innocence and retention in the Marine Corps. In support of your claim, you provided the 22 August 2024 letter directing your retention on active duty.

The Board noted pursuant to the Marine Corps Individual Records Administration Manual (IRAM), you were issued a Page 11 entry counseling for violation of Article 112a (wrongful use of a controlled substance) of the Uniform Code of Military Justice. Specifically, on or about 12 August 2023 and 12 September 2023, for wrongful use of marijuana, a Schedule I controlled substance. The Board determined the contested entry was written and issued in accordance with the IRAM. Specifically, the counseling entry provided written notification concerning your deficiencies and afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer signed the entry, and he or she determined that your misconduct was a matter essential to record, as it was his or her right to do. The Board thus determined the commanding officer relied upon sufficient evidence and acted within his or her discretionary authority when deciding that your counseling entry was warranted.

The Board noted that you were the subject of Administrative Separation Board (ASB) as processing for administrative separation is mandatory for substantiated cases of illegal use of a controlled substance. The Board considered your claim that you were retained, however, the Board noted that an ASB functions as an administrative rather than a judicial body whose purpose is the administrative elimination of unsuitable, unfit, or unqualified Marines from continued service, and does not determine guilt or innocence. The Board further determined other than your statement you provided insufficient evidence to support your claim that you were innocent. The Board concluded that the decision to retain you does not invalidate the counseling entry and you provided insufficient evidence for the Board to determine the misconduct did not occur.

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 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,

2/18/2025

