



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

██████████
Docket No. 1110-25
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 22 April 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 application, together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, as well as the 3 May 2023 advisory opinion (AO) furnished by the Staff Judge Advocate to the Commandant of the Marine Corps (JPL) and your new application¹.

The Board carefully considered your request to remove the 16 June 2020 Administrative Remarks 6105 (Page 11) counseling entry and rebuttal statement. The Board considered your statement regarding the circumstances of your case and contentions that the entry is erroneous, inaccurate, and unjust because there was no evidence of domestic violence. You also contend the command did not consider the Incident Determination Committee (IDC) findings. You claim your spouse admitted the allegations were untrue and, upon learning this, the Criminal Investigation Division (CID) and Family Advocacy Program (FAP) dropped their investigation; therefore, the elements of Article 128 could not have been met. You also claim that you were

¹ As described in your legal brief, the AO was issued in response to your original application to this Board. You requested to administratively close your case in order to respond to the AO. You submitted a new application and legal brief in response to the AO.

not allowed to relay your side of events to the Commanding General (CG). As evidence, you provided a legal brief and letter of support.

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 regarding a domestic violence incident at your residence, by unlawfully and aggressively grabbing your wife by her arms with your hands. The Board also noted that you acknowledged the entry, and in your statement, you denied assaulting your wife and claim that your spouse told leadership that she called the Provost Marshall's Office (PMO) because she wanted you to leave the house. The Board, however, 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 an opportunity to submit a rebuttal. The Board also determined that the Commanding General (CG) acted within his discretionary authority when determining that your counseling entry was warranted.

The Board noted that the Military Police (MP) took a statement from your spouse describing the events that occurred on the evening of 15 April 2020. The PMO Report indicates that the MPs found probable cause to apprehend you and determined that your conduct violated Uniform Code of Military Justice, Article 128b. The Board also noted the IDC determination that the incident did not meet criteria for intimate partner physical abuse. The Board, however, substantially concurred with the AO that the purpose of the IDC is to determine which unrestricted reports of domestic abuse meet the criteria for entry into the Marine Corps Central Registry. It is not an error if the findings of the IDC differ from the findings of law enforcement agencies. Department of Defense criteria that define the type of abuse may be "more or less" inclusive than the criteria used by the law enforcement agency because the IDC may have different information than the law enforcement agency.

The Board carefully considered the letter of support you provided but found it unpersuasive. The Board found your spouse's statement at the time of the incident to be credible and found the evidence you provided insufficient to conclude that conduct described in the counseling entry did not occur. Contrary to your statement that CID dropped the investigation, the Board found no evidence to support this claim. The Board, however, noted that the PMO Report indicates that CID was notified and declined jurisdiction. The reason for their decline is not noted in the report but the Board determined that the IDC determination does not invalidate the MPs on scene assessment and findings, nor does it invalidate the CG's decision to document the incident in your official record. The Board found no evidence that the CG failed to consider the totality of evidence relevant to your case; including the IDC report. 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.

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,

5/7/2025

