



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

Docket No. 6286-25
Ref: Signature Date

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 13 May 2026. 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.

The Board carefully considered your request to remove a 6105 counseling entry, dated 29 May 2025, and all associated adverse material, from your Official Military Personnel File (OMPF). You contend that the underlying allegations were dismissed by the civilian court due to lack of evidence and cooperation by the complaining witness. You further contend both the Naval Criminal Investigative Service (NCIS) and the Office of Special Trial Counsel (OSTC) declined to pursue charges; but despite this, your command issued the counseling entry based solely on internal discretion. In doing so, you believe the command's action undermined due process and the principle of innocent until proven guilty.

The Board, however, found you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of the counseling entry or related materials. Although you point out that the civilian court, in addition to NCIS and OSTC, did not ultimately pursue a case against you, those decisions do not negate the decision of your commander, within his discretion, to document your conduct in a counseling entry. The Board noted, the underlying charges in your case related to domestic violence, and opined, it is not uncommon for domestic violence victims to decline cooperation in cases against their offenders. Even so, regardless of the reason why charges were not pursued against you, the Marine Corps Performance Evaluation

(PES) Manual states, "It is immaterial whether...charges are dismissed or expunged from civilian courts' records...These actions do not change the character of the initial misconduct." Additionally, a counseling entry is an administrative tool, which documents a commander's decision. It is given a presumption of regularity, which requires a Petitioner to provide substantial evidence that the commander's decision was unjust or was materially in error. Commanders are authorized to make counseling entries that are essential to document an event in a Marine's career for which no other means or method of recording exists. With the dismissal of civilian charges, the Board opined, documenting your conduct in a counseling entry was appropriate recourse, and you have not provided sufficient evidence to show that your commander's decision was unjust or materially in error. Lastly, the Board noted there were no errors in the content of the counseling entry. As required, it provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, consequences for failure to take corrective action, and afforded you the opportunity to submit a rebuttal. Your rebuttal was received and is on file, as it should be, in your OMPF. For these reasons, the Board concluded your counseling entry is valid as filed and remains appropriate.

Accordingly, given the totality of the circumstances, the Board determined 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,

6/1/2026

Executive Director

Signed by: