



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

Docket No. 6747-25
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.

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 25 March 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 June 2021, from your Official Military Personnel File (OMPF). You contend the counseling entry was issued for unsafe operation of a motor vehicle prior to completion of the associated civilian court case. Because the civilian court dismissed the charge, you argue the 6105 should be removed.

The Board, however, found you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting relief. Specifically, the Board found the counseling entry was valid, and not impacted by the civilian court dismissal. Rather, the Board found your commanding officer (CO), within his discretion, appropriately issued the counseling entry. The Board opined, a counseling entry is an administrative tool that is given a presumption of regularity, requiring you, as Petitioner, to provide substantial evidence that the entry was unjust or materially in error. To be valid, a counseling entry must provide (1) written notification concerning deficiencies, (2) specific recommendations for corrective action, (3) where to seek assistance, (4) consequences for failure to take corrective action, and (5) it must afford an opportunity to submit a rebuttal. Both the CO and recipient must also sign the entry. Upon

review of the counseling entry at issue, the Board found all requirements were met. The Board additionally noted that, pursuant to the Performance Evaluation System (PES) Manual, it is immaterial whether charges are dismissed by a civilian court, as that action does not change a CO's ability to address underlying misconduct. Lastly, the Board noted, although you attempt to rely on the civilian court's dismissal to support your innocence, you did not deny the misconduct. The Board noted, a dismissal of charges, which may occur for any number of reasons, is not necessarily an exoneration from misconduct or finding of innocence, and has no impact on a previously issued, valid, counseling entry.

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,

4/9/2026

