



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

HCG
Docket No. 2037-16
JUL 28 2017

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USMC.

Ref: (a) Title 10 U.S.C. §1552

Encl: (1) DD Form 149 w/attachments
(2) HQMC memo 1070 JPL of 6 Mar 17
(3) Page 11 of 3 Feb 16
(4) FITREP of 6 Feb 16
(5) FITREP of 15 Dec 16

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing a NAVMC 118(11) 6105 Counseling Entry (Page 11).
2. The Board, consisting of [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 24 May 2017 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Per the Petitioner's statement, on 8 October 2015, she was directed to report to her Reviewing Officer's (RO) office. Petitioner states another officer, was also present at the meeting. During this meeting, the Petitioner states that the RO confronted her with a myriad of allegations regarding her behavior and interactions with junior Marines. She states that when she was afforded the opportunity to respond, she was quickly interrupted and asked by the RO if she was getting an attitude with him. The Petitioner states she responded by saying that she was not and at that time decided it was best not to say anything further. At the end of the discussion she was asked if she had anything to add and she replied that she did not. See enclosure (1).

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USMC,

c. Petitioner states that one week later, on 15 October 2015, she was again directed to report to her RO's office. At this time she states the RO informed her that she would be moving her to the Battalion and that this was best for everyone concerned. Petitioner states that at this time she asked if this move was adverse of if she was being officially relieved of her duties to which the RO replied it was not adverse and she was not being officially relieved. At this time the Petitioner inquired about her Fitness Report (FITREP) and was informed that it would be completed within the week, as her Reporting Senior (RS) was separating from active duty and had been directed to complete all FITREPs prior to her departure. See enclosure (1).

d. Petitioner states that on 16 October 2015, she reported to the Battalion Sergeant Major and was assigned to work as the Battalion Limited Duty Coordinator. See enclosure (1).

e. Petitioner states that in December 2015, her Sergeant Major informed her that her RO intended to issue a 6105 counseling entry and that she would be receiving an adverse FITREP based on her being relieved for cause. See enclosure (1).

f. The Petitioner received a 6105 counseling entry on 3 February 2016. The Petitioner's RS signed her adverse FITREP, covering the period of 20 June 2015 to 15 October 2015, on 6 February 2016, 3 days after the counseling was issued. See enclosures (3) and (4).

g. Petitioner argues that the 6105 counseling entry is unsupported. She states that the counseling was received over 3 months after the October 2015 discussions with her RO and that the adverse FITREP she received in February 2016 was also unsupported. In the FITREP the RS states that the Petitioner was counseled numerous times. However, the Petitioner states that upon requesting documentation of said counseling's, she was informed that she had received a copy. The Petitioner states that she did not receive any copies. See enclosures (1), (3), and (4).

h. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has indicated that the request should be denied. Where the Petitioner states that she was not afforded a reasonable opportunity to correct her deficiencies before the adverse 6105 counseling entry was made, JPL argues that no such requirement for a Marine to be afforded such an opportunity before issuance of a 6105 counseling entry exists. Next, where the Petitioner states that the deficiencies identified in the entry are not reflected in her FITREP covering this period, JPL argues that that FITREP the Petitioner received that covers the period of 20 June 2015 to 15 October 2015, occasioned by her relief, belies this claim. However, there is no requirement that a 6105 counseling entry be preceded by formal documentation of the same or similar deficiencies. Thirdly, where the Petitioner states that the entry does not contain specific examples of the deficiencies alleged, JPL argues that the entry adequately details her deficiencies. Lastly, where the Petitioner states that the entry does not contain specific recommendations for corrective action, JPL argues that the entry specifically recommends that she "read publications focused on communications such as 'The Power of Communication' from the Commandant's Professional Reading List", and "ensure that you engage your superiors and peers regularly to ensure an understanding and alignment of intent and priorities." JPL concludes that the Petitioner has failed to meet the burden of proof required to demonstrate the existence of a probable error or injustice.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USMC,
[REDACTED]

CONCLUSION

Upon review and consideration of all the evidence of record, and notwithstanding the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that while there are no administrative errors to the 6105 counseling entry, the entry should be removed. The FITREP covering the period of 20 June 2015 to 15 October 2015 was marked adverse; per the statements on the FITREP from the RS and the RO, the Board was persuaded that the 6105 counseling entry is the written counseling entry referenced in the FITREP. As the 6105 counseling entry was issued more than 3 months after the ending date of the FITREP, it does not support the timeframe of the adverse FITREP. Moreover, the subsequent FITREP covering the period of 16 October 2015 to 25 July 2016, which includes the date of the 6105 counseling entry of 3 February 2016, is marked very favorably for the Petitioner as "One of the many highly qualified" Marines. In addition, the Commanding Officer that signed the 6105 counseling entry on 3 February 2016 is the RO for the FITREP covering this period, who marked the Petitioner so favorably. The Board concluded that the fact the 6105 counseling entry is not within the period of the adverse FITREP, and that the CO who issued the 6105 counseling entry wrote the Petitioner such a favorable subsequent FITREP, supports a finding there exists an injustice and dictates the removal of the 6105 counseling entry. See enclosure (5).

RECOMMENDATION:

That Petitioner's naval record be corrected by removing the 6105 Counseling (Page 11) Entry, and all derogatory materials referencing it.

That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

[REDACTED]
Recorder

5. The foregoing action of the Board is submitted for your review and action.

[REDACTED]
Executive Director

Reviewed and approved/~~disapproved~~

[REDACTED]
ABC/MARA)

8/22/2017