



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

[REDACTED]  
Docket No: 6151-20  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED] XXX XX [REDACTED] USMCR

Ref: (a) Title 10 U.S.C. § 1552  
(b) MCO P1070.12K (IRAM)  
(c) MCO 1900.16 (MARCORSEPMAN)

Encl: (1) DD Form 149 w/enclosures  
(2) Administrative remarks (Page 11) 6105 counseling entry of 18 Jun 20  
(3) Petitioner's rebuttal of 19 Jun 20

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected by removing his 18 June 2020 Administrative Remarks (Page 11) counseling entry and 19 June 2020 rebuttal, as well as his 4 August 2019 to 30 June 2020 Fitness Report.

2. The Board, consisting of [REDACTED], [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 8 July 2021, 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, relevant portions of the 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. Except as stated below, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy before applying to this Board.

b. Petitioner was issued enclosure (2), a Page 11 6105 counseling him regarding his relief as the Company First Sergeant due to loss of trust and confidence in his ability to effectively serve as a senior enlisted advisor. The entry noted that, despite previous counseling, Petitioner continued to conduct himself in a manner that is contrary to what is expected of a senior enlisted advisor, as well as his failure to exercise sound judgment, inability to exhibit restraint, unwillingness to take corrective action for known deficiencies.

c. Petitioner was issued an adverse Fitness Report for the reporting period 4 August 2019 to 30 June 2020 due to his relief as the Company First Sergeant.

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d. Petitioner asserts that the Page 11 6105 counseling and his relief of duty was due to a 23 May 2020 civilian arrest based upon false allegations made by his then-wife, and despite his previous stellar performance and conduct, his command felt it necessary to relieve him of his duties as the Company First Sergeant. Petitioner contends that the derogatory material should be removed from his record because all civilian charges were dropped, and his civilian arrest has been expunged.

e. On 21 July 2020, the General Sessions Court of [REDACTED] rendered a *Nolle Prosequi* (State's Motion not prosecute) Judgment / Order regarding Petitioner's 23 May 2020 arrest and charge of false imprisonment.

f. References (b) and (c) provide commanders wide discretion regarding the subject-matter of a counseling, so long as a commanding officer has the necessary understanding of the facts and circumstances surrounding the subject matter of the counseling in order to exercise the judgment entrusted upon him or her.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting partial relief. In this regard, the Board determined that Petitioner was falsely accused of a misdemeanor, which led to his relief as the Company First Sergeant, and that his command did not have sufficient understanding of all of the facts and circumstances surrounding the incident at the time the Page 11 was issued. The Board thus concluded that the Page 11 and rebuttal shall be removed from his official military personnel file.

The Board did not consider Petitioner's request to remove his Fitness Report for the reporting period 4 August 2019 to 30 June 2020, as he has not had the opportunity to exhaust this potential remedy through the Headquarters Marine Corps Performance Evaluation Review Board, based on this Board's decision to remove his 18 June 2020 Page 11 6105 counseling entry.

## RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner's naval record be corrected by expunging enclosure (2), his 18 June 2020 Page 11 6105 counseling entry, and enclosure (3), his 19 June 2020 rebuttal statement.

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. This includes, but is not limited to, all information systems or database entries that reference or discuss the expunged material.

No further relief granted.

4. It is certified that a 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.

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5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

7/20/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]