



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

[REDACTED]
Docket No. 815-21
Ref: Signature Date

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

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

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

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) counseling entry of 11 Jul 19

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 his naval record be corrected by removing the Administrative Remarks (Page 11) 6105 counseling entry at enclosure (2).

2. The Board, consisting of Ms. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 1 October 2021, and pursuant to its regulations, determined 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 Petitioner's 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, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. On 11 July 2019, Petitioner was issued a Page 11 6105 entry counseling him for his disorderly conduct and drunkenness which resulted in his arrest by the Fontana Police Department. Petitioner elected to submit a written rebuttal, but the rebuttal is not in his official military personnel file (OMPF), and there is no counter-entry indicating he did not submit his rebuttal.

c. Petitioner contends the entry should be removed because the entry and his written rebuttal statement were not submitted within the required 30 days. Further, he contends its continued inclusion in his record is unjust because the allegation of public drunkenness was dismissed by civilian authorities. Lastly, Petitioner contends the counseling entry was "not deemed necessary for the severity of the situation that occurred."

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CONCLUSION

Upon review and consideration of all the evidence, the Board concluded Petitioner's request warrants partial relief. In this regard, the Board determined removal of the contested Page 11 entry would constitute an excessive degree of redress. The Board, however, determined Petitioner did chose to submit a written rebuttal, which was not entered into his OMPF in violation of reference (b). Although Petitioner did not furnish a copy of the rebuttal statement he purportedly submitted in response to the Page 11 counseling entry, the Board concluded Petitioner shall be allowed an opportunity to resubmit the rebuttal statement, providing it is in compliance with reference (b).

RECOMMENDATION

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

Petitioner shall be allowed to resubmit for inclusion into his OMPF his rebuttal to enclosure (2), the 11 June 2019 Page 11 6105 counseling entry. If Petitioner elects to resubmit the rebuttal, it must be in compliance with reference (b) and received by Headquarters, Marine Corps (MMRP-13) within 60 days of receipt of this letter.

That no further relief be 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.
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 Regulations, 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.

10/15/2021

[REDACTED]
E [REDACTED]
Deputy Director

gne [REDACTED] [REDACTED]