



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

[REDACTED]
Docket No: 2956-21
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1070.12K (IRAM)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) counseling entries of 27 Jan 14 and 5 Feb 14
(3) Administrative Remarks (Page 11) counseling entry of 22 Jul 15

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 her naval record be corrected by removing two Administrative Remarks (Page 11) counseling entries. Enclosure (2).

2. Although her 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 her application on its merits. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 18 November 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's record is incomplete, in that it does not contain all of the documents pertinent to the administrative separation processing. However, whenever official records are incomplete or unavailable, unless there is substantial credible evidence to rebut the presumption, the Board can presume a regularity in the conduct of the government affairs.

c. Petitioner enlisted in the U.S. Marine Corps Reserves on 6 May 2013.

d. On 27 January 2014, Petitioner was issued a Page 11 promotion restriction counseling; specifically, informing her of her ineligibility for promotion for an 18 month period due to

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administrative separation due to misconduct (drug abuse). Petitioner did not sign the entry, and it was instead annotated "SNM not available." Enclosure (2).

e. On 5 February 2014, Petitioner was issued a Page 11 counseling her concerning her administrative separation processing from the U.S. Marine Corps Reserve due to misconduct (drug abuse). Petitioner did not sign the entry, and it was instead annotated "SNM not available." Enclosure (2).

f. On 22 July 2015, Petitioner was issued a third Page 11 counseling her concerning her promotion restriction to the grade of lance corporal due to pending administrative separation for misconduct (drug abuse). Petitioner did not sign the entry, and it was instead annotated "SNM not [available] for signature." Enclosure (3).

g. Petitioner's record reflects she was promoted to the rank of [REDACTED] prior to being discharged from the U.S. Marine Corps Reserve on 7 May 2021.

h. Petitioner contends she willingly admitted to her wrongdoing of taking drugs and was processed for administrative separation due to drug abuse, however, she was retained in the U.S. Marine Corps Reserve. Petitioner further contends she continued showing up for drill despite the chain of command telling her not to, passed all her physical fitness tests and combat fitness tests, and continued to prove she was a stellar Marine. Although Petitioner's case is incomplete, she provided character statements from senior leaders in her command who corroborate her contentions.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief. In this regard, the Board determined that Petitioner submitted sufficient evidence to support her contentions, and that the evidence of record does not support the matters of the Page 11 counseling entries.

The Board noted that per reference (b), Page 11 entries should not be issued concerning administrative discharge proceedings that do not, upon final review, result in discharge. The Board therefore, deemed the entries invalid. The Board concluded that the contested Page 11 entries, as well as the Page 11 entry at enclosure (3), shall be removed from Petitioner's official military personnel file.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (2) and (3), the 27 January 2014, 5 February 2014, and 22 July 2015 Page 11 counseling entries.

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

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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.

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 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.

12/6/2021

[REDACTED]

Deputy Director

Signed by: [REDACTED]