



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

[REDACTED]
Docket No: 3799-21
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] USMC

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

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) counseling entry of 4 Dec 20
(3) Petitioner's rebuttal (undated)
(4) CO, [REDACTED] ltr 5800 CO of 4 Jun 21

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 to remove an Administrative Remarks (Page 11) counseling entry dated 4 December 2020 and the associated rebuttal.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 14 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 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. On 4 December 2020, Petitioner was issued enclosure (2), a Page 11 counseling him regarding his "negative trend of poor judgment" concerning his "leadership, guidance, and mentorship of junior Marines" in his charge. Petitioner acknowledged the entry and submitted a rebuttal, enclosure (3).

c. On 12 January 2021, as a result of the completed command investigation into the circumstances which warranted the 4 December 2020 counseling entry, Petitioner received nonjudicial punishment (NJP) from the Commanding General, [REDACTED], for violations of Articles 89 and 133 of the Uniform Code of Military Justice. Petitioner was issued a punitive letter of reprimand (PLOR). As a result of the NJP, the Commanding General submitted a Report of NJP recommending Petitioner not be required to show cause for retention in the Marine Corps. The report was subsequently reviewed at all levels, and the Commandant

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of the Marine Corps, the designated Show Cause Authority, concurred with the recommendation on 12 July 2021 and directed the case be closed but the adverse material be included in Petitioner's Official Military Personnel File (OMPF).

d. The Commanding Officer (CO) who issued enclosure (2), submitted enclosure (4), a letter requesting the Board remove the Page 11 entry from Petitioner's OMPF because it was preemptively issued prior to conclusion of the investigation and proper adjudication of the deficiencies. Further, the CO contends the counseling entry is superfluous in nature.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board determined Petitioner's request warrants relief. The Board, relying on enclosure (4), determined that although the Page 11 entry was not in error or unjust at the time of issuance, it is in the interest of justice to remove it now, especially considering the fact that Petitioner was issued a PLOR for the same misconduct, and the PLOR was inserted into Petitioner's OMPF in compliance with reference (b).

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 4 December 2020 Page 11 counseling entry and associated rebuttal.

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. 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.

10/31/2021

[REDACTED]
Executive Director

Signed by: [REDACTED]