



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

█
Docket No. 4638-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
█ USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO P1070.12K (IRAM)
(c) MCO 1900.16 w/ ch 2 (MARCORSEPMAN)

Encl: (1) DD Form 149 w/enclosures
(2) NAVMC 10132 (UPB) 4 Jan 18
(3) Administrative Remarks (Page 11) counseling of 22 Jan 18
(4) █ Memo 1000 MND 23 Mar 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 that his naval record be corrected by removing a Unit Punishment Book entry, enclosure (2), documenting a non-judicial punishment of 4 January 2018, from his official military personnel file (OMPF).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 1 February 2022 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 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. Petitioner took a unit urinalysis test on 28 November 2017; on 26 December 2017 █
█ Navy Drug Lab notified Petitioner's command Petitioner tested positive for MDMA 893. On 4 January 2018, Petitioner underwent non-judicial punishment (NJP) and plead "not guilty." Petitioner's commanding officer (CO) found Petitioner guilty of violating Article 112a (drug abuse) of the Uniform Code of Military Justice (UCMJ). As punishment, Petitioner received reduction to lance corporal, forfeiture of \$918 pay per month for two months, restriction to the limits of place of mess, billet, duty, and worship and most direct route to and from for 45 days, and extra duty for 45 days. Petitioner's forfeiture of pay was suspended. Petitioner did not appeal the NJP. Petitioner received an Administrative Remarks Page 11 counseling entry on 22

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January 2018, enclosure (3), stating that he was being processed for administrative separation for drug abuse.

c. Petitioner argues that the NJP is erroneous because at a 2 December 2019 administrative discharge board (ADB), the ADB determined that the evidence did not prove that Petitioner knowingly and willfully abused drugs, enclosure (4).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board determined that Petitioner's request warrants partial relief. The Board noted that the NJP and the actions of an ADB are separate and distinct and neither is dependent upon the other for legitimacy. Based on the known facts, Petitioner's CO determined that Petitioner violated Article 112a UCMJ. The Board further noted that Petitioner voluntarily accepted NJP and chose not to appeal the imposition the NJP.

However, the Board did note the 22 January 2018 Page 11 entry notified Petitioner that he was being processed for administrative separation. Yet, Petitioner was not administratively separated and was retained on active duty. According to reference (b) and reference (c), a command should "not make entries on Page 11 which concern administrative discharge or competency review proceedings if they do not, upon final review, result in discharge or reduction". Consequently, the Board found enclosure (3), the Page 11 entry, invalid and unjust as it concerns administrative discharge and the ADB did not find for misconduct or separation.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (3), the 22 January 2018 Page 11 counseling entry.

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

2/9/2022

[REDACTED]
Executive Director
[REDACTED]