



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

██████████
Docket No: 5242-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████
XXX XX ██████████ USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1070.12K W/CH 1 (IRAM)
(c) MCO 1900.16 W/CH 2 (MARCORSEPSMAN)

Encl: (1) DD Form 149 w/attachments
(2) NAVMC 118(11) Administrative Remarks of 24 May 21
(3) Petitioner Rebuttal of 28 May 21
(4) Advisory Opinion by HQMC memo 1070 SEC of 22 Nov 21
(5) Fitness report for the reporting period 24 Jun 20 to 24 May 21

1. Pursuant to the provisions of the reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requests to remove enclosures (2), (3), and (5).

2. The Board, consisting of three members reviewed Petitioner's allegations of error and injustice on 4 January 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 that, before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy with exception to enclosure (5). The Board made the following findings:

a. On 24 May 2021, Petitioner was issued a Page 11 6105 entry counseling her for a loss of trust and confidence in her ability to lead, due to her inability and failure to contribute to building a positive command climate and maintaining unity of command. The entry noted evidence of a negative command climate, documented in the 25 February 2021 Ground Climate Assessment Survey System (GCASS), 15 April 2021 Defense Equal Opportunity Climate Survey (DEOCS), and four separate Inspector General anonymous complaints. Petitioner acknowledge the counseling entry and elected to submit a written rebuttal. In her rebuttal, Petitioner asserts that the Page 11 entry does not accurately characterize her action as the company commander, and asserts that the division of her company was due to the actions of her first sergeant and two gunnery sergeants. See enclosures (2) and (3).

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b. Petitioner contends that she assumed command during November 2020, and the GCASS occurred during February 2021. She asserts that the GCASS only evaluated two months of her time in command, and that she remained in command until May 2021. Petitioner acknowledges receiving four formal counselings, and claims that the counselings illustrate her positive progress as a company commander and that the battalion commander trusted her with the company. Petitioner believes that there was some collateral effect due to the battalion commander's near term change of command and because the battalion received multiple complaints during a deployment in Australia, before she arrived at the command.

c. The advisory opinion (AO), furnished by Headquarters Marine Corps recommended approving Petitioner's request to remove the contested Page 11 6105 counseling entry. The AO noted that reference (b) authorizes commanders to issue Page 11 counseling entries to officers for misconduct or substandard performance of duty and the counseling entry for an officer shall be issued pursuant to paragraph 3005 of reference (b), not paragraph 6105 of reference (c). The AO determined that 6105 counseling entries are intended for enlisted Marines and may not be used to officers. The AO determined that Petitioner's page 11 entry is in error and recommends removal. See enclosure (4).

BOARD MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board majority found the existence of an error warranting partial corrective action. In this regard, the Board majority substantially concurred with AO. The Board majority noted that Petitioner's Page 11 6105 entry contains language specific to enlisted service members, and that language is not applicable to officers. The Board majority determined that Petitioner's Page 11 entry was not issued according to reference (b) and should be removed.

Concerning Petitioner's request to remove contested fitness report, enclosure (5), the Board majority determined that Petitioner has not exhausted her administrative remedies. The Headquarters Marine Corps Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals, therefore, Petitioner must submit her request to the PERB.

BOARD MAJORITY RECOMMENDATION

In view of the above, the Board majority recommend the following corrective action.

Petitioner's naval record be corrected by removing the 24 May 2021 Administrative Remarks (Page 11) 6105 counseling entry and 28 May 2021 rebuttal.

No further changes be made.

BOARD MINORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board minority found the existence of an error warranting partial corrective action. In this regard, the Board minority

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substantially concurred with the AO that Petitioner's Page 11 6105 counseling entry was not issued in accordance with reference (b). However, the Board minority determined that although the Page 11 6105 entry was not the appropriate format, Petitioner's Commanding Officer clearly determined that Petitioner's substandard performance and relief for cause were matters significant enough to document in her permanent record and that her relief for cause is a matter of record. The Board minority concluded that Petitioner's Page 11 6105 entry should be redacted by removing paragraphs 3 and 4. Once redacted, the Page 11 will be valid and in compliance with reference (b).

Concerning Petitioner's request to remove her contested fitness report, enclosure (5), the Board minority determined that Petitioner has not exhausted her administrative remedies. The Headquarters Marine Corps Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals, therefore, Petitioner must submit her request to the PERB.

BOARD MINORITY RECOMMENDATION

In view of the above, the Board minority recommend the following corrective action.

Petitioner's naval record be corrected by redacting the 24 May 2021 Administrative Remarks (Page 11) 6105 entry by redacting the following paragraphs:

"Failure to take corrective action and any further violation of the UCMJ, disciplinary action, or incidents requiring formal counseling may result in judicial or adverse administrative action including but not limited to administrative separation."

"I understand that failure to complete my enlistment contract with an honorable characterization of service may preclude my eligibility for benefits from the Department of Veterans Affairs or other organizations and have an adverse effect on future civilian employment."

No further changes be made.

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. The foregoing action of the Board is submitted for your review and action.

1/24/2022

[REDACTED]

Executive Director

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XXX XX [REDACTED] USMC

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved (Deny Relief)

Reviewed and Approved Board Majority Recommendation by removing enclosures (2) and (3)
(Partial Relief)

Reviewed and Approved Board Minority Recommendation by redacting enclosure (2)
(Partial Relief)

Reviewed and Approved Petitioner's Request (Grant Relief)

2/7/2022

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]