



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

[REDACTED]  
Docket No: 5313-21  
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) Title 10 U.S.C. § 1552  
(b) MCO 1070/12K (IRAM)  
(c) MCO 1900.16 (MARCORSEPMAN)  
(d) MCO 5800.16 (LSAM)

Encl: (1) DD Form 149 w/enclosures  
(2) Administrative Remarks (Page 11) 6105 counseling entry of 5 Nov 13

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 to remove his 5 November 2013 Administrative Remarks (Page 11) entry. Enclosure (2).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 13 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 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 5 November 2013, Petitioner was issued a Page 11 entry concerning a traffic violation he received on or about 22 September 2013 by the [REDACTED] Highway Patrol for speed in excess of 100 miles per hour in a 55 miles per hour zone. Enclosure (2).

c. Petitioner contends that the Page 11 entry was improperly issued by his Company Commanding Officer, who was a Captain at the time, and the counseling entry can only be issued by the first General Officer in his chain of command.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice, warranting partial relief. Specifically, the Board noted that Petitioner was improperly issued the counseling pursuant to paragraph 6105 of reference (c), which applies only to enlisted Marines, instead of paragraph 3005 of reference (b). The Board determined, however, that this error may be corrected administratively, and removal of the entry is not warranted.

In this regard, the Board noted that Volume 15, paragraph 0105, Section 010502.1.A of reference (d) provides that officers may receive a Page 11 counseling for misconduct, and that the counseling shall be issued pursuant to paragraph 3005 of reference (b), and not paragraph 6105 of reference (c). The Board also noted that per paragraph 3005 of reference (b), administrative remarks should be limited to matters forming an essential and permanent part of an officer's military history, which are not recorded elsewhere in the record or the Marine Corps Total Force System, and which will be useful to future commanders.

The Board determined that Petitioner's contention regarding the requirement that a Page 11 be issued by the first General Officer in his chain of command is without merit. In this regard, paragraph 3005.e of reference (b) provides that "certain entries may require authentication by the commanding officer and/or acknowledgment by the Marine" and "[a]ll other page 11 entries may be signed by direction of the commanding officer (unit commander) unless otherwise indicated." "Unit Commander" is defined as the company, battery, or squadron commander or their functional equivalent. The Board thus determined that the issuing officer, purportedly Petitioner's company commander, was well within his discretionary authority to issue the counseling entry, which forms an essential and permanent part of Petitioner's military history, which is not recorded elsewhere in his record or the Marine Corps Total Force System, and which will be useful to future commanders. Petitioner was also afforded an opportunity to submit a written rebuttal within five working days after acknowledgement of the entry, and he chose not to make such a rebuttal.

The Board thus concluded that paragraph five of the contested Page 11 entry shall be redacted, and that the redacted Page 11 counseling entry shall remain in 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 redacting the following paragraph from his 5 November 2013 Administrative Remarks Page 11 entry.

"Failure to take corrective action and any further violations of the UCMJ may result in judicial or adverse administrative action, including but not limited to administrative separation."

No further changes be made to Petitioner's record.

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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.

2/7/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]