



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

█  
Docket No: 5667-21  
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) 10 U.S.C. § 1552  
(b) BCNR Docket NR20190010660  
(c) BCNR Docket NR20200008758

Encl: (1) DD Form 149 with attachments  
(2) Unit Punishment Book entry of 16 Nov 18  
(3) Administrative Remarks (Page 11) counseling entry of 25 Oct 19  
(4) Administrative Remarks (Page 11) entry of 31 Jan 20

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 record be corrected by removing the nonjudicial punishment of 16 November 2018, removing the Administrative Remarks (Page 11) counseling entry of 25 October 2019, and reinstating him to active duty with back pay of all pay and entitlements from the date of his separation.

2. The Board, consisting of █ and █, reviewed Petitioner's allegations of error and injustice on 10 February 2022 and, pursuant to its regulations, determined the corrective action indicated below should be taken. 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 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 entered active duty with the Marine Corps on 22 May 2017. On 16 November 2018, Petitioner received nonjudicial punishment (NJP) for being absent from his place of duty; disrespecting a superior commissioned officer by addressing him in an argumentative tone, contemptuously turning away from the officer, and removing his jacket in a threatening manner; willfully disobeying a superior commissioned officer by saying words in refusal to calm down and removing his jacket in a threatening manner; failure to obey an order by drinking alcohol; and drunkenness. See Enclosure (2).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED] USMC

c. On 25 October 2019, Petitioner received enclosure (3), a 6105 counseling entry for failure to obey an order by failing to surrender his extra common access card (CAC) to Defense Enrollment Eligibility Processing System (DEERS) and noncompliance with procedural rules by failing to notify his staff noncommissioned officer and DEERS after losing his CAC.

d. Subsequently, Petitioner was notified of pending administrative separation action by reason of misconduct due to pattern of misconduct. After he waived his procedural rights, Petitioner's commanding officer recommended Petitioner be separated with a general, under honorable conditions, character of service due to misconduct. On 15 January 2020, the discharge authority directed Petitioner be discharged with a general, under honorable conditions, character of service by reason of misconduct due to pattern of misconduct. On 31 January 2020, Petitioner was issued enclosure (4), a Page 11 entry stating he would be assigned a RE-4 reenlistment eligibility code upon separation. Petitioner was discharged on 12 February 2020.

e. On 22 January 2021, per reference (b), the Board removed two Page 11 entries for 27 March 2019 and 12 August 2019.

f. On 2 August 2021, per reference (c), the Board changed Petitioner's characterization of service to "honorable", narrative reason for separation to "secretarial authority", separation code to "JFF1", separation authority to "MARCORSEPMAN 6214", and reentry code to "RE-3C." The Board also removed Page 11 entries dated 5 March 2019 and 13 December 2019. However, the Board, after considering all potentially mitigating factors, determined there was insufficient evidence of an error or injustice warranting reinstatement to active duty with back pay of all pay and entitlements and denied Petitioner's request to be reinstated.

g. Petitioner contends his discharge was unjust and improper because the NJP of 16 November 2018 and the counseling entry of 25 October 2019, the incidents relied upon for the administrative separation, should be removed based on the new evidence provided. In support of his request for relief, Petitioner submitted statements from a Marine Gunnery Sergeant and Marine Sergeant which support Petitioner's contention he should not have received NJP. Additionally, Petitioner submitted a statement from a Staff Sergeant and screen shots of a text message exchange which support his contention he should not have been counseled on 25 October 2019.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes Petitioner's request warrants partial relief. In this regard, the Board concluded it was in the interest of justice to remove the Page 11 entry of 31 January 2020 because a previous Board changed his reentry code to RE-3C.

The Board, however, determined the newly submitted statements did not provide sufficient evidence of an error or injustice to overcome the presumption of regularity in the Commanding Officer's decisions to administer NJP on 16 November 2018 and counsel Petitioner on 25 October 2019.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED] USMC

This Board concurred with the previous Board's determination and concluded there was insufficient evidence of an error or injustice warranting reinstatement to active duty or back pay of all pay and entitlements. The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief. Accordingly, given the totality of the circumstances, the Board again determined Petitioner's request to be reinstated and receive back pay since the day of separation does not merit relief.

RECOMMENDATION:

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

Petitioner's naval record be corrected by removing enclosure (4), his 31 January 2020 Administrative Remarks (Page 11) entry.

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.

3/10/2022

[REDACTED]  
Executive Director  
[REDACTED]