



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

██████████
Docket No: 5827-21
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 6100.13A W/CH 3 (MC PFT/CFT)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) 6105 counseling entry of 19 Jul 21
(3) Petitioner rebuttal of 22 Jul 21
(4) Fitness Report for the reporting period 9 May 20 to 30 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 that his naval record be corrected by removing enclosure (2), (3), and (4).

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 10 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 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 with the exception of his request to remove his Fitrep.

b. On 25 May 2021, Petitioner participated in a Marine Corps Physical Fitness Test (PFT) and failed the 3-mile run portion of the PFT. On 2 June 2021, Petitioner visited the Naval Branch Health Clinic ██████████ and was diagnosed with ██████████. The medical provider also determined that while it was impossible to definitively say with certainty, patient's signs, symptoms and timeline were most consistent with transient vaccine side effects. Enclosure (1).

c. On 19 July 2021, Petitioner was issued a Page 11 6105 counseling entry for failure to [maintain] the required PFT standards resulting in his failed PFT on 25 May 2021. Petitioner acknowledged the entry and chose to submit a written rebuttal. Enclosures (2) and (3).

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d. Petitioner was issued an annual Fitrep for the reporting period 9 May 2020 to 30 June 2021. The Fitrep was rendered adverse due to his PFT failure on 25 May 2021, as noted in Block 6a and the Section I comments. On 26 June 2021, while on temporary limited duty, Petitioner completed a partial PFT, as noted in Section 8b and Section I comments of the Fitrep. Petitioner acknowledged the adverse nature of the Fitrep and submitted a rebuttal statement. A Third Officer Sighter adjudicated the factual differences and concurred with the adverse nature of the Fitrep. Enclosure (4).

e. Petitioner contends the Fitrep was unjust in nature because he ran the PFT less than a week after receiving his second vaccination and that the side-effects contributed to his failed run portion of the PFT. Petitioner asserts that after he consulted with the medical personnel and the Headquarters Marine Corps Force Fitness Division, all parties agreed that the symptoms he exhibited were documented effects of the vaccine and should not have resulted in punitive action. Petitioner further contends he received little to no support from his Senior Enlisted Advisor and was not able to discuss the issue with the Chief of Staff who issued the Page 11 6105 counseling entry. Furthermore, Petitioner contends leaders push heavily on getting vaccinated but offer little support for the after-effects.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting relief. The Board noted that Petitioner submitted substantial documentation in support of his contentions and determined that Petitioner, if not for falling ill, would have passed the run portion of the PFT on 25 May 2021. The Board further noted that although Petitioner encountered a rapid onset illness during the run portion and not before conducting the PFT, there was no way of predicting he would have developed symptoms prior to conducting the PFT, and he would not have known he needed a light-duty chit, as required in reference (b). The Board thus concluded that the Page 11 6105 counseling entry was issued in error and it shall be removed from his official military personnel file (OMPF). The Board also concluded that the Fitrep is in error since it was rendered adverse due to the Page 11 6105 counseling entry. The Board concluded that the Fitrep shall also be removed from the Petitioner's OMPF without first requiring him to petition the Headquarters Marine Corps Performance Evaluation Review Board.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2), his 19 July 2021 Page 11 6105 counseling entry.

Petitioner's naval record be corrected by removing enclosure (3), his 22 July 2021 rebuttal statement.

Petitioner's naval record be corrected by removing enclosure (4), his Fitrep for the reporting period 9 May 2020 to 30 June 2021.

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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.

3/8/2022

[REDACTED]

Deputy Director

Signed by [REDACTED]