



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

█
Docket No: 6080-21

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 1070.12K

Encl: (1) DD Form 149 w/attachments
(2) CG, █ ltr 1000-34/01 G1 of 26 May 21
(3) NAVMC 118(11) Administrative Remarks of 2 Jun 21
(4) NAVMC 118(11) Administrative Remarks of 2 Jan 21
(5) █ ltr of 8 Jun 21
(6) █ ltr of 8 Jun 21
(7) HQMC memo 1070 JPL of 8 Feb 22

1. Pursuant to the provisions of the reference, 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 his 2 June 2021 Administrative Remark (page 11) entries and 8 June 2021 rebuttal statements.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 1 March 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, 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 26 May 2021, Petitioner executed permanent change of assignment orders and reported to the Commanding General, █, █. See enclosure (2).

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c. On 2 June 2021, Petitioner was issued a page 11 entry counseling him for attempted fraternization which rose to the level of sexual harassment toward a Sailor in the pay grade E-3 while embarked aboard the [REDACTED]. The entry also noted that Petitioner engaged in behavior towards Sailors in the pay grade of E-7 and E-8 that attempted to establish an unduly familiar relationships and cause them to perceive the work environment as hostile and/or offensive. Petitioner acknowledged the entry and elected to submit a statement. See enclosure (3).

d. On 2 June 2021, Petitioner was issued an additional page 11 entry counseling him for disobeying a direct and lawful order to report to the unit to meet with the commanding officer (CO). Despite confirming his understanding of the requirement to report he failed to arrive and failed to respond to multiple phone calls and text messages. See enclosure (4).

e. On 8 June 2021, Petitioner submitted statements in rebuttal to the contested page 11 entries. See enclosures (5) and (6).

f. On 8 February 2022, the Marine Corps Military Personnel Law Branch furnished an advisory opinion (AO) recommending that the Board grant Petitioner's request. The AO noted that the CO, [REDACTED] issued Petitioner's page 11 entries. The AO also noted that Petitioner executed PCA orders on 26 May 2021 terminating his assignment to [REDACTED]. The AO determined that when the counseling entries were issued, Petitioner was assigned to [REDACTED] not [REDACTED]. The AO also determined that according to the Marine Corps Separation and Retirement Manual, the CO must sign adverse counseling entries, however, a counseling cannot be issue by just any CO. Thus, the CO, CLB [REDACTED] did not have the authority to issue Petitioner's counseling entries. The AO explained that the CO, [REDACTED] should have forwarded the investigation to Petitioner's current commander for review and adjudication. See enclosure (7).

g. Petitioner contends that the entries are unjust because he transferred from the issuing command on 26 May 2021 and was no longer under the authority of the commander that issued the page 11 entries. Petitioner also contends that the commander improperly adjudicated an investigation after he had already executed orders out of her command.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an error warranting corrective action.

The Board substantially concurred with the AO that Petitioner's page 11 entries should be removed. In this regard, the Board noted that Petitioner was no longer assigned to [REDACTED] when the page 11 entries were issued. Thus, the CO, [REDACTED] was not Petitioner's CO and did not have the authority to issue the page 11 entries. Accordingly, the Board determined that Petitioner's contested page 11 entries and rebuttal statements should be removed.

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RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (3) and (4), his 2 June 2021 Administrative Remarks (page 11) 6105 entries.

Petitioner's naval record be corrected by removing enclosure (5) and (6), his 8 June 2021 rebuttal statements.

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 Regulations, 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.

3/15/2022

[REDACTED]