



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

██████████
Docket No: 97-22
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) 10 U.S.C. § 1552
(b) MCO P1070.12K (IRAM)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks 6105 and Page 11 counseling entries of 30 Mar 21
(3) Rebuttal Statement of 1 Apr 21
(4) CO, ██████████ ltr 1900 CO of 31 Mar 21
(5) Petitioner's Personal Receipt of Notification of Separation Proceedings of 31 Mar 21
(6) Petitioner's Acknowledgement of Rights of 8 Apr 21
(7) CG, ██████████ ltr 1900 Legal of 7 Dec 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 his naval record be corrected by removing the Administrative Remarks 6105 counseling entry of 30 March 2021 and associated rebuttal statement at enclosure (2).

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 24 March 2022, and pursuant to its regulations, determined 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 as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. On 30 March 2021, Petitioner was issued a 6105 entry counseling him regarding a domestic abuse incident involving his spouse. By signing the 6105, Petitioner acknowledged he was being processed for Administrative Separation. On 1 April 2021, Petitioner submitted a rebuttal statement explaining the incident and actions taken since the incident occurred. See enclosures (2)-(3).

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

c. As well on 30 March 2021, Petitioner was issued a Page 11 entry stating he was eligible but not recommended for promotion while pending administrative separation. See enclosure (2).

d. On 31 March 2021, Petitioner was notified of pending administrative separation proceedings by reason of misconduct due to commission of a serious offense. On 8 April 2021, he acknowledged the rights he could exercise or waive during separation proceedings and, after consulting counsel, requested a hearing before an Administrative Discharge Board (ADB). See enclosures (4) through (6).

e. On 12 August 2021, an ADB determined the preponderance of the evidence did not prove the basis for which Petitioner was notified and recommended he be retained in the United States Marine Corps. On 7 December 2021, Commanding General, [REDACTED] Marine Aircraft Wing, approved the ADB's findings and recommendation, and Petitioner was retained. See enclosure (7).

f. Petitioner contends enclosure (2)¹ should be removed because there were no pending legal actions and/or convictions arising from the incident, and because the ADB determined the preponderance of the evidence did not prove the misconduct. Further, he contends removal is warranted because he successfully completed all recommended counseling.

CONCLUSION

Upon review and consideration of all the evidence, the Board concluded Petitioner's request warrants partial relief. In this regard, the Board determined the counseling entries at enclosure (2) creates a permanent record of matters Petitioner's commanding officer deemed significant enough to document. The Board noted the administrative separation process is not intended as, nor does it function as, a method to overturn or invalidate other procedures or administrative actions. It is conceivable and permissible that the administrative separation and counseling processes, which have separate considerations and purposes, may arrive at different findings. The Board concluded the ADB's determination does not impact the validity of the 6105 and Page 11 counseling entries at enclosure (2).

However, the Board, noting the counseling entries at enclosure (2) stated Petitioner was being processed for administrative separation but that he was ultimately retained, determined the statements regarding administrative separation processing is no longer in compliance with reference (b). The Board concluded it was in the interest of justice to redact the references to Petitioner's administrative separation processing from the 6105 and Page 11 counseling entries at enclosure (2).

Lastly, the Board noted Petitioner's Official Military Personnel File (OMPF) still contains documents related to his administrative separation processing, namely enclosures (4) through (7), and concluded it was in the interest of justice for these documents to be removed from Petitioner's OMPF.

¹ Reference (b) does not authorize Page 11 entries which concern administrative discharge proceedings if the proceedings, upon final review, do not result in discharge.

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

RECOMMENDATION

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

Petitioner's naval record be corrected by redacting the following language from the 30 March 2021 6105 counseling entry at enclosure (2): "I understand that I am being processed for the following judicial or adverse administrative action: administrative separation per paragraph 6210.6."

Petitioner's naval record be corrected by redacting the following language from the 30 March 2021 Page 11 promotion-restriction entry at enclosure (2): "...while pending administrative separation..."

Petitioner's naval record be corrected by removing enclosures (4) through (7).

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.

No further relief be granted.

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.

[REDACTED] 4/26/2022

Deputy Director
Signed by: [REDACTED]