



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

[REDACTED]  
Docket No. 132-22  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

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

Ref: (a) Title 10 U.S.C. § 1552  
(b) MCO P1070.12K (IRAM)  
(c) MCO 1900.16 w/ Chapter 2 (MARCORSEPMAN)

Encl: (1) DD Form 149 w/enclosures  
(2) Administrative Remarks (Page 11) 6105 counseling entry of 2 Dec 20  
(3) Administrative Remarks (Page 11) 6105 counseling entry of 14 Dec 20  
(4) Petitioner rebuttal undated  
(5) Administrative Remarks (Page 11) 6105 counseling entry of 14 Dec 20  
(6) Administrative Remarks (Page 11) 6105 counseling entry of 25 Jan 21  
(7) Administrative Discharge Board Report of 9 Apr 21  
(8) Administrative Remarks (Page 11) 6105 counseling entry of 16 Aug 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 Administrative Remarks (Page 11) entries relating to his administrative separation board from his official military personnel file (OMPF).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 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, 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 2 December 2020, Petitioner received a counseling entry, enclosure (2), for being arrested for battery, using force with his hand against his spouse, and being drunk and disorderly in violation of Article 128 (Assault consummated by a battery upon a spouse) and Article 134 (Disorderly conduct, drunkenness) of the Uniform Code of Military Justice (UCMJ). Petitioner received two counseling entries on 14 December 2020. Petitioner received enclosure (3)

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notifying him that he was being processed for administrative separation per paragraph 6210.6 of reference (c) for Misconduct - Commission of a Serious Offense and Petitioner; Petitioner submitted a rebuttal, enclosure (4). Petitioner also received enclosure (5), which stated that he was in a promotion restriction status to the rank of staff sergeant for a period of 6 months. On 25 January 2021, Petitioner received a counseling entry, enclosure (6), stating that he completed inpatient treatment for alcohol on 18 January 2021. Petitioner underwent an administrative discharge board (ADB) on 9 April 2021 and the ADB determined that the preponderance of the evidence did not prove Petitioner violated Articles 128 and 134 of the UCMJ, enclosure (7). Petitioner received a counseling entry on 16 August 2021, enclosure (8), stating that he was processed for administrative separation and that the Commanding General, I Marine Expeditionary Force (I MEF) directed 'Retention'.

c. Petitioner argues that the Page 11 entries related to the ADB are erroneous and should be removed from his OMPF because the ADB did not substantiate the allegations and recommended retention instead of separation.

## CONCLUSION

The Board noted that enclosure (3) notified Petitioner that he was being processed for administrative separation, and enclosure (8) stated that Petitioner was processed for Administrative Separation. However, Petitioner was not administratively separated and was retained on active duty. According to reference (b) and reference (c), a command should "not make entries on Page 11 which concern administrative discharge or competency review proceedings if they do not, upon final review, result in discharge or reduction."

Upon review and consideration of all the evidence of record, the Board determined that Petitioner's request warrants partial relief. The Board found enclosures (3) and (8) erroneous as the counseling entries concern administrative discharge and the ADB did not find for misconduct or separation.

However, the Board found the counseling entries of enclosures (2), (5), and (6) valid. The Board determined these entries were written and issued in accordance with reference (b). Specifically, the entries provided written notification concerning Petitioner's deficiencies; moreover, the entries created a permanent record of matters the Petitioner's CO deemed significant enough to document, and as the Petitioner's CO, he was within his authority to issue the counseling entries.

## RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (3), Petitioner's 14 December 2020 Page 11 counseling entry notifying him of administrative separation; enclosure (4), Petitioner's rebuttal; and enclosure (8), Petitioner's counseling entry dated 16 August 2021.

No further relief be granted.

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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 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.

4/4/2022

[REDACTED]  
Deputy Director  
[REDACTED]