



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

█
Docket No: 381-22
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

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (6105) counseling entry (undated) and Rebuttal Statement of 21 Dec 19
(3) █ County Sheriff's Dept Certificate of Release for Case No. █
(4) CO, █ LAR Bn ltr 1000 █ of 17 Nov 21
(5) █ LAR Bn ltr 1000 █ of 30 Nov 21
(6) █ ltr 1000 DBN of 10 Dec 21
(7) HQMC memo 1070 MMRP-13/MOD of 15 Feb 22

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 an undated Administrative Remarks (6105) counseling entry and associated rebuttal statement.

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. Petitioner was issued a 6105 entry counseling him regarding his failure to report his arrest by the █ Sheriff's Department on 9 November 2019. On 21 December 2019, he submitted a rebuttal statement to the undated counseling entry. See Enclosure (2).

c. Petitioner contends enclosure (2) is in error, unjust, and should be removed because it states he was arrested without having any evidence of the incident. He contends that he explained to his chain of command, when they visited him on convalescent leave to issue the counseling, that he had never been officially arrested, charged, or required to appear in a court regarding the matter. Petitioner contends he verified these facts with his chain of command by calling the █ Court and the District Attorney in their presence.

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d. In support of his contentions, Petitioner submitted enclosure (3), a certificate of release from the Sheriff's Department stating he was taken into custody on 9 November 2019 and it was "a detention only, not an arrest."

e. Petitioner submitted advocacy letters from his current Commanding Officer, his Reporting Senior at the time of the incident, and the Battalion Commander who issued the 6105 counseling entry. See enclosures (4) through (6).

f. Petitioner submitted evidence that his fitness report for the reporting period 2 November 2019 to 31 December 2019, which was adverse due to the issuance of the contested 6105, has been removed by direction of the Commandant of the Marine Corps. See enclosure (7).

CONCLUSION

Upon review and consideration of all the evidence, the Board concluded Petitioner's request warrants relief. In this regard, the Board, relying on enclosures (3) through (7), concluded it was in the interest of justice to remove the undated counseling entry and associated rebuttal statement dated 21 December 2019.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2), the undated 6105 counseling entry and the associated rebuttal statement dated 21 December 2019.

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 corrections to Petitioner's naval record.

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.

4/26/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]