



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

[REDACTED]
Docket No: 548-22
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO P1070.12K w/CH 1

Encl: (1) DD Form 149 w/attachments
(2) Administrative Remarks (page 11) 6105 entry of 6 Sep 18
(3) Administrative Remarks (page 11) entry of 24 Mar 17
(4) Administrative Remarks (page 11) entry of 8 Mar 18
(5) HQMC memo 1070 JPL of 3 May 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 to remove enclosure (2).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 June 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 6 September 2018, Petitioner was issued a page 11 entry counseling him for failing to qualify with the M16A2 service rifle. The page 11 entry contains a signature acknowledging the entry and an election not to submit a statement. See enclosure (2).

c. Petitioner contends that he did not acknowledge the page 11 entry. Petitioner also contends that the entry was signed by another Marine and the signature does not match his actual signature. As evidence, Petitioner furnished two counseling entries with his purported signature. See enclosures (3) and (4).

d. The advisory opinion (AO) furnished by the Headquarters Marine Corps, Military Personnel Law Branch recommended removing Petitioner's page 11 entry. The AO noted that according to reference (b), a Marine must either sign a formal counseling or the command must annotate that the Marine refused to

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sign the counseling. In this case, Petitioner did not sign the formal counseling and it was signed by someone with a different name. The AO explained that it is likely that multiple Marines were counseled for failing to qualify on the same rifle range and the wrong Marine signed Petitioner's counseling. The AO determined that, regardless of the reason, the requirements imposed by reference (b) to administer a formal counseling were not followed. Thus, a material error exist when a command does not follow the applicable regulations. See enclosure (5).

CONCLUSION

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

The Board substantially concurred with the AO that Petitioner's page 11 entry should be removed. In this regard, the Board noted enclosures (3) and (4) and found that enclosure (2) was not acknowledged by Petitioner as required by reference (b). The Board determined that Petitioner provided sufficient evidence demonstrating the existence of an error and concluded that Petitioner's contested page 11 entry should be removed.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (2).

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.

That no further changes be made 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 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.

6/17/2022

[REDACTED]

Deputy Director
Signed by: [REDACTED]