



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

██████████
Docket No: 687-22
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) Title 10 U.S.C. § 1552
(b) MCO 1070/12K (IRAM)
(c) MCO 1900.16 (MARCORSEPMAN)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) 6105 counseling entry of 13 Sep 21 and 14 Sep 21
Rebuttal
(3) Commanding General, ██████████ Marine Division, Third Endorsement 5830 SJA of 17 Feb
22
(4) Deputy SJA, ██████████ Marine Division, Memorandum for the Record 5830 SJA of 3 Mar
22
(5) Commanding Officer, ██████████ Marine Regiment Letter 1400 of 21 Apr 2022

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 to remove an Administrative Remarks (Page 11) 6105 counseling entry and associated rebuttal.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 2 May 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 the 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. Petitioner was issued a Page 11 6105 counseling for violation of Prohibited Activities and Conduct (PAC) while serving as a Platoon Sergeant. Petitioner acknowledged the entry and submitted a written rebuttal. See enclosure (2).

c. Petitioner was identified during a command climate survey as a leader who showed preferential treatment of Marines, to include awarding or meritoriously promoting, based on their race. A subsequent command investigation substantiated the allegations resulting in the

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issuance of the contested Page 11 6105 counseling. Petitioner eventually submitted an appeal into the findings of the command investigation. Based on his appeal of the command investigation findings and new evidence, Commanding General, [REDACTED] determined the allegations against Petitioner were unsubstantiated. See enclosure (3) and (4).

d. As part of his petition, Petitioner submitted enclosures (3), (4), and (5) in support of his request for removal of the 6105 and rebuttal statement. Enclosure (5) was issued by Petitioner's former Commanding Officer; the officer who issued the Page 11 6105 counseling. In his letter, he recommends approval of Petitioner's request to remove enclosure (2) based on new evidence raised in Petitioner's appeal to the command investigation. He concurs with the CG that the allegations that formed the basis for the counseling are now unsubstantiated.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting relief. In this regard, the Board relied on enclosures (3) through (5) in determining that the original PAC allegations against the Petitioner are now unsubstantiated. As a result, the Board determined enclosure (2) should be permanently removed from the Petitioner's record official military personnel file.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2), his 13 September 2021 Page 11 6105 counseling entry and 14 September 2021 rebuttal.

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.

6/4/2022

[REDACTED]
Executive Director

Signed by: [REDACTED]