



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

[REDACTED]
Docket No: 1529-22
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) 10 U.S.C. § 1552
(b) MCO 1610.7A
(c) MCO 1900.16 W/CH 2 (MARCORSEPMAN)
(d) MCO P1070.12K (IRAM)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) entry of 4 Mar 20
(3) Fitness Report for the reporting period 1 Oct 19 to 30 Sep 20
(4) HQMC memo 1610 MMRP-50 of 25 Oct 21
(5) CMC ltr1610 MMRP-13/PERB 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 Administrative Remarks (Page 11) counseling entry and fitness report for the reporting period 1 October 2019 to 30 September 2020.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 31 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 4 March 2020, Petitioner was issued enclosure (2), a Page 11 entry counseling him regarding his "incompetency" and "neglect to properly oversee and adhere to procedures as the Administrative Chief." The Page 11 entry noted specific recommendations for corrective action and the consequences of failing to take corrective action. Petitioner acknowledged the entry and chose not to submit a rebuttal.

c. Petitioner was issued enclosure (3), a fitness report for the reporting period 1 October 2019 to 30 September 2020. The Reporting Senior (RS) provides justification for adverse attribute

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marks in Section F.3 “Setting the Example” and Section G.3 “Judgment,” by referencing the “6105” counseling issued on 4 March 2020. Also, in his Section I comments and continuation of comments, the RS repeatedly references the 6105 counseling.

d. On 15 February 2022, Petitioner’s request contained in enclosure (1), as well as the AO at enclosure (4), were considered by the Headquarters Marine Corps Performance Evaluation Review Board (PERB). As referenced in enclosure (5), the majority opinion of the three members of the PERB was the petition did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of the fitness report in accordance with reference (b).

e. Petitioner contends enclosure (2) does not meet the 6105 counseling criteria of reference (c). Specifically, he contends the individual who issued enclosure (2) was not billeted as a “promotion authority” so his jurisdiction to issue this type of negative counseling should be considered invalid. In support of his contention, Petitioner submitted an e-mail from the Battalion Personnel Officer stating Petitioner was erroneously counseled by a commanding officer who did not have promotion authority.

f. Petitioner contends enclosure (3), the fitness report for the reporting period 1 October 2019 to 30 September 2020, should be removed because the 6105 counseling entry, which made the report adverse, did not “meet the scope of derogatory material.”

g. Per reference (d), an Inspector-Instructor is authorized to issue negative counselings.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting partial corrective action. In this regard, the Board noted the 4 March 2020 counseling entry at enclosure (2) did not meet the criteria for a 6105 counseling entry because it did not state the assistance that is available to the Petitioner to overcome his deficiencies. The Board did, however, determine that the entry was issued in accordance with reference (d). Specifically, it creates a permanent record of a matter that Petitioner’s commanding officer deemed significant enough to document, and the Petitioner’s evidence did not show otherwise. The Board also noted the entry provided the opportunity to rebut the entry and was appropriately issued by an authorized officer per reference (d). The Board thus concluded there is insufficient evidence of material error or injustice warranting the removal of the 4 March 2020 counseling entry.

However, the Board also noted the fitness report at enclosure (3) repeatedly references the “6105” and concluded it was an error for the RS to use the term “6105” in the comments of the fitness report since the 4 March 2020 counseling entry did not meet the requirements of reference (c) paragraph 6105. The Board determined there was sufficient evidence of an error to warrant modification of the Section F.3 “Setting the Example,” Section G.3 “Judgment,” and Section I comments by replacing “6105” with “counseling” to properly reflect the specific nature of the counseling entry.

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RECOMMENDATION

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

Petitioner's naval record be corrected by modifying enclosure (3), the fitness report for the reporting period 1 October 2019 to 30 September 2020 as follows:

- 1) In Section F "Justification" replace "a 6105" with "counseling."
- 2) In Section G "Justification" replace "a 6105" with "counseling."
- 3) In the Section I RS comments, replace "6105" with "counseling."
- 4) In the RS's continuation of Section I comments, replace "6105" with "counseling."

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.

4/29/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]