



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

[REDACTED]
Docket No: 2780-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] 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 12 Sep 19
(3) Administrative Remarks (Page 11) entry of 13 Apr 20

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 three Administrative Remarks (Page 11) counseling entries.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 6 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 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. On 12 September 2019, Petitioner was issued a Page 11 6105 counseling for two violations of Article 92 of the Uniform Code of Military Justice. Specifically, on 26 August 2019, a preliminary inquiry substantiated that one of his Drill Instructors habitually conducted unauthorized incentive training, which caused a large chemical burn on one Recruit's knee and made several others vomit from the bleach fumes. When made aware of the Recruit's injury, Petitioner did not ensure the Recruit sought medical attention. Additionally, by not informing his chain of command of the Drill Instructor's misconduct, Petitioner was found to be complicit with the events that occurred. Enclosure (2).

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c. On 13 April 2020, Petitioner was issued a Page 11 counseling as a result of his relief for cause from drill instructor duty due to personal misconduct and loss of trust and confidence. The entry was annotated with "SNM Unavailable for Signature." Enclosure (3).

d. Petitioner contends that he was not allowed sufficient time to make a statement due to permanent change of station orders the same day the Page 11 6105 counseling was issued, and that he was not able to plead his case or seek legal advice. Petitioner also contends that the Page 11 entry documenting his relief for cause was issued seven months after executing a permanent change of station (PCS) from Parris Island and Drill Instructor duty.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting partial relief. In this regard, the Board noted that pursuant to reference (b), the 12 September 2019 Page 11 6105 counseling was properly issued by Petitioner's Commanding Officer, who was within his discretionary authority to issue the counseling, and that the counseling entry creates a permanent record of matters his Commanding Officer deemed significant enough to document. The Board also determined the entry met the 6105 counseling requirements detailed in reference (c). Specifically, the Board noted the entry provided written notification concerning Petitioner's deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. Petitioner was afforded an opportunity to submit a written rebuttal, and he indicated that he intended to submit a rebuttal. However, the Board noted that a rebuttal has not been filed in Petitioner's official military personnel file (OMPF). The Board concluded there is insufficient evidence of material error or injustice warranting removal of the contested Page 11 6105 counseling entry, but instead, the Petitioner shall be allowed the opportunity to submit a written rebuttal for inclusion in his OMPF.

The Board further noted that the 13 April 2020 Page 11 counseling entry was not issued in accordance with reference (b) because it was issued after Petitioner executed PCS orders from the command that issued the Page 11. The Board thus concluded that the 13 April 2020 Page 11 counseling entry shall be removed from Petitioner's OMPF.

RECOMMENDATION

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

Petitioner's naval record be corrected by allowing Petitioner to submit a written rebuttal to enclosure (2), his 13 September 2019 Page 11 6105 counseling entry, providing it is submitted within 60 days from the date of this letter and that it is written in compliance with reference (b).

Petitioner's naval record be corrected by removing enclosure (3), the 13 April 2020 Page 11 counseling entry.

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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 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.

6/27/2022	
[REDACTED]	
Executive Director	
Signed by: [REDACTED]	