



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

██████████  
Docket No: 3537-22  
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)

Encl: (1) DD Form 149 w/enclosures  
(2) Administrative Remarks (Page 11) 6105 counseling entry of 15 Jun 18  
(3) Petitioner medical documentation  
(4) PERB ltr w/supporting documentation of 11 Apr 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 that his naval record be corrected to remove an Administrative Remarks (Page 11) 6105 counseling entry, dated 15 June 2018, from his official military personnel file (OMPF). See enclosure (2).

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 30 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, reference (b) 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. On 7 January 2018, Petitioner was seen at medical for low back pain and referred to the chiropractor clinic for treatment. See enclosure (3). Prior to his chiropractor appointment, he failed a physical fitness test (PFT) on 15 June 2018.

c. On 15 June 2018, Petitioner was issued enclosure (2), a Page 11 6105, concerning his physical fitness failure. Petitioner acknowledged and signed the entry. Petitioner chose not to submit a rebuttal statement. Petitioner was also issued an adverse Fitness Report (Fitrep) for the reporting period of 1 June 2018 to 31 December 2018.

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d. On 11 July 2018, Petitioner commenced treatment at the chiropractor clinic. Petitioner was diagnosed with mild degenerative disc disease with mild retrolisthesis and central disc bulging. See enclosure (3).

e. On 11 April 2022, the Marine Corps Performance Evaluation Board (PERB) directed that the Petitioner's record be corrected by removing the adverse Fitrep for the reporting period of 1 June 2018 to 31 December 2018. The PERB's decision took into consideration a favorable advisory opinion provided by the Manpower Management Division Records and Performance Branch (MMRP-30) who opined that Petitioner received a proper diagnosis and produced the purported underlying medical condition as a probable limiting factor to passing the PFT.

f. Petitioner contends the Page 11 6105 was due to a failure of a PFT caused by a serious medical issue. Petitioner further contends he was previously assessed at medical and referred to a chiropractor; however, there was a mandatory PFT scheduled that he was required to take prior to the commencement of his treatment. Petitioner asserts he was told afterwards that he should have stopped his PFT if he was in pain; a fact he was unaware of at the time.

## 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 determined that Petitioner submitted sufficient evidence to support his contentions that he had a serious medical condition at the time of the 15 June 2018 PFT and that the Page 11 6105 counseling entry was issued unjustly. The Board noted the PERB decision to remove the adverse Fitrep for the reporting period and concluded the Page 11 6105 entry that formed the basis for the adverse Fitrep should also be removed from Petitioner's OMPF as a matter of equity.

## RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2), his 15 June 2018 Page 11 6105 counseling entry from his OMPF.

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.

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

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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.

7/19/2022

[REDACTED]  
Executive Director

Signed by: [REDACTED]