



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

[REDACTED]
Docket No. 4972-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) MCO 1900.16 (MARCORPSEPSMAN)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks 6105 counseling, 22 Sep 20 and corresponding Rebuttal, 30 Sep 20
(3) Administrative Remarks (Page 11) "Will Not Promote" counseling, 28 Sep 20
(4) Commanding Officer, Set Aside Letter, 29 Apr 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 that her naval record be corrected by removing enclosure (2).

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 19 July 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, 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 22 September 2020, Petitioner was issued enclosure (2), a 6105 counseling entry due to violation of Article 91 of the Uniform Code of Military Justice (UCMJ) for insubordinate conduct toward a noncommissioned officer and Article 107 of the UCMJ for false official statement. Petitioner acknowledged the entry and elected to submit a written rebuttal on 30 September 2020, which states "I do not agree with the basis of this 6105."

c. On 28 September 2020, Petitioner was issued enclosure (3), a Page 11 "Will Not Promote" to the grade of corporal "due to recent Counseling Statements." Petitioner acknowledged the entry and chose not to submit a written rebuttal.

d. On 29 April 2022, Petitioner's Commanding Officer (CO) wrote a set aside letter stating the 6105 was an injustice to the Petitioner because the Squadron Duty Officer (SDO) referenced in the 6105 was found to be exhibiting harassing behavior towards multiple Marines in the barracks and was subsequently ordered to have no contact with three Marines, to include the Petitioner. Further, Petitioner's CO noted that the SDO should not have been standing duty as he was in a legal hold pending results of an investigation regarding allegations of sexual assault.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

CONCLUSION

Upon review and consideration of all the evidence, and especially in light of the CO's set-aside letter, the Board determined that Petitioner's request warrants relief. The Board, relying on the CO's set-aside letter, determined it was in the interest of justice to remove the contested Page 11 entry at enclosure (2), as well as the promotion-restriction counseling at enclosure (3), which appears to be issued as a result of the contested 6105 counseling.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing the enclosure (2) the 22 September 2020 6105 counseling entry and corresponding rebuttal.

Petitioner's naval record be corrected by removing enclosure (3) the 28 September 2020 Page 11 "Will Not Promote" to the grade of corporal counseling entry.

Note: HQMC will conduct an audit to determine if Petitioner should have been promoted to corporal on 1 October 2020 vice 1 November 2020, based on the removal of the 28 September 2020 "Will Not Promote" to the grade of corporal counseling entry. Per this counseling, Petitioner was selected for corporal for 1 October 2020. Thus, if HQMC determines Petitioner was selected for the 1 October 2020 promotion to corporal, HQMC will back date Petitioner's rank and pay any associated pay entitlements.

That 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 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

8/26/2022

[REDACTED]

Deputy Director

[REDACTED]