



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

[REDACTED]
Docket No. 5014-22
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 P1070/12K (IRAM)
(c) MCO P1400.32 (MARCORPROMAN, VOL 2, ENLPROM)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) counseling of 28 Aug 15
(3) Administrative Remarks (Page 11) counseling of 14 Sep 15
(4) Administrative Remarks (Page 11) counseling of 13 Oct 15
(5) Administrative Remarks (Page 11) counseling of 10 Dec 15
(6) Administrative Remarks (Page 11) counseling of 25 Jan 16
(7) Administrative Remarks (Page 11) counseling of 29 Jun 17

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 enclosures (2) through (7).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 9 August 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 28 August 2015, Petitioner was issued a Page 11 counseling, noting that he was selected, but would not be promoted to corporal for the month of September due to a lack of proficiency in his military occupational specialty (MOS). Enclosure (2).

c. During the period from 14 September 2015 to 25 January 2016, Petitioner received four Page 11, non-recommendation for promotion to corporal entries, due to a lack of proficiency in his MOS. Enclosures (3) through (6).

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d. Petitioner was promoted to corporal on 1 April 2016.

e. On 29 June 2017, Petitioner received a Page 11 non-recommendation for promotion to sergeant entry due to a lack of proficiency in his MOS. Enclosure (7).

f. Petitioner asserts that, due to the length of his MOS school, he had very little experience when he became eligible for promotion to corporal. He also asserts that he was required to complete local training directed by his Command in order to be recommended for promotion to corporal and sergeant. Petitioner contends that the six Page 11 entries should be removed because, since being promoted to sergeant on 1 September 2017, he conduct a demanding lateral move process into a different MOS and obtain a Bachelor's Degree in Criminal Justice. He also contends that the contested entries do not reflect his quality or work ethic as a Marine. Lastly, Petitioner contends that reference (b) states that Page 11 entries should not be used as a local training record.

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 determined that the issuance of the counseling entries at enclosures (3) and (4) were not in accordance with policy. In this regard, the Board noted that Petitioner did not sign the Page 11s and instead, "SNM not available for signature" was noted in place of the Petitioner's signature. In accordance with references (b) and (c), an entry is required when a Marine is either selected but not promoted, or eligible but not recommended for promotion, and the Marine will acknowledge (sign) the entry. The Board thus concluded that the Page 11 entries at enclosures (3) and (4) shall be removed.

The Board disagreed with the Petitioner that the contested Page 11 entries should be removed because he has since obtained the rank of sergeant, conducted a lateral move to another MOS, and received a Bachelor's degree. The Board noted that the contested Page 11 entries were valid at the time he was eligible for promotion and subsequent good performance and conduct do not invalidate the entries.

With regard to Petitioner's assertion that the Page 11s do not reflect his quality or work ethic as a Marine and that they appear to have been used as a local training record, The Board noted that the decision to promote to the grades of private first class through sergeant rests solely with those commanders designated in paragraph 1200.3b of reference (c) and that a Marine will not be promoted if, in the opinion of the commander, the Marine is not capable of performing satisfactorily in the higher grade, even though all other requirements have been met. The Board thus determined that the commanding officer was well within his/her discretionary authority to issue the contested Page 11 entries.

RECOMMENDATION

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

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Petitioner's naval record be corrected by removing enclosures (3) and (4), Page 11 non-recommendation for promotion counseling entries dated 14 September 2015 and 13 October 2015, respectively.

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.

9/8/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]