



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

██████████  
Docket No. 6912-22  
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 1900.16  
(c) MCO 1610.11D

Encl: (1) DD Form 149 w/attachments  
(2) NAVMC 118(11) Administrative Remarks (6105 Counseling Entry), 24 Aug 20  
(3) ██████████ Rebuttal to the 6105, undated  
(4) Fitness report for the reporting period 1 Jul 20 to 24 Aug 20  
(5) ██████████ ltr 1400, 15 Sep 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 Petitioner's naval record be corrected by removing the Administrative Remarks (6105 counseling entry) dated 24 August 2020, rebuttal statement, and fitness report for the reporting period 1 July 2020 to 24 August 2020. Petitioner also request promotion consideration by the Fiscal Year (FY) 2020 Sergeant Major (SgtMaj/E-9) Enlisted Remedial Selection Board (ERSB).

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 11 October 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, finds as follows:

a. Before applying to this Board, Petitioner did not exhaust all administrative remedies available under existing law and regulations within the Department of the Navy.

b. On 24 August 2020, pursuant to reference (b), Petitioner was issued a 6105 entry counseling him for disrespect toward a superior commissioned officer by stating in an abrasive and elevated voice, a quote by his spouse that included numerous expletives. Petitioner was also counseled for being derelict in the performance of his duties by failing to complete a response to the commanding officer (CO) on a Base Housing Inspector General compliant, as it was his duty

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],  
XXX XX [REDACTED] USMC

to do. Petitioner acknowledged the entry and in his statement indicated that he wished that he had done thing differently, would evolve from this, and he took responsibility. Petitioner explained that he never had any conscious intention of being disrespectful, the paraphrases in the counseling were taken out of context. He received simultaneous directions and chose to finish the curriculum development. Upon reflection, he wishes he would have completed the CO's order first. Enclosures (2) and (3).

c. Petitioner was issued fitness report for the reporting period 1 July 2020 to 24 August 2020. Petitioner's fitness report was marked adverse for his receipt of derogatory material. The reviewing officer (RO) noted that Petitioner received a counseling entry for disrespect toward a superior commissioned officer and failure to obey an order by neglecting to complete an assigned preliminary inquiry. The RO also noted that due to the formal counseling, Petitioner was relieved for cause due to the commander's loss of trust and confidence in his ability to effectively deal with adverse situations. The RO commented that he expects Petitioner to rebound. The Third Officer Sighter found the fitness report to be administratively and procedurally correct and found no factual differences between the Petitioner, reporting senior, and RO comments. Enclosure (4).

d. On 26 August 2022, Petitioner emailed his former RO requesting a letter to the promotion board based on his recovery through his performance and future potential.

e. In correspondence from Petitioner's former RO, he request that Petitioner's 6105 entry and fitness report be removed. As justification he explained that he reviewed and considered new information surrounding the adverse material and determined that if he knew and better understood this new information at that time, he would have taken non-punitive and non-administrative measures at his disposal to resolve any miscommunication between him and his subordinate leaders. The former RO noted that the new information confirms that the formal counseling and derogatory material in his fitness report is unwarranted and should be considered for correction. Enclosure (5).

f. Petitioner contends that there was information not disclosed to the CO before issuing the 6105 entry and the new information caused the CO to change his mind about issuing the entry. Petitioner provided a statement to explain the circumstance that led to the interaction with the company commander and his wife's frustration because his leave was not approved for the date of his son's birthday. As evidence, Petitioner noted that the CO that issued the counseling submitted correspondence requesting to remove the 6105 entry.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an injustice warranting partial corrective action.

In consideration of the correspondence furnished by Petitioner's former CO, the Board found the CO's justification compelling. In this regard, the Board noted that the source of the correspondence was the officer that issued the 6105 entry and determined that his request should

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],  
XXX XX [REDACTED] USMC

be granted. Based upon the former CO's recommendation, the Board determined that the 6105 entry should be removed.

Concerning Petitioner's request to remove the fitness report for the reporting period 1 July 2020 to 24 August 2020, the Board determined that Petitioner has not exhausted his administrative remedies. The Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals, therefore, he must submit a request to the PERB, according to reference (c). The Board also determined that Petitioner's request for an ERSB is premature. Petitioner's record still contains adverse material, Petitioner has not demonstrated due diligence, and he has not exhaust his administrative remedies by submitting a request to the Marine Corps Enlisted Promotions Branch (MMPR-2).

#### RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (2) and (3), Petitioner's 6105 counseling entry dated 24 August 2020, and associated rebuttal statement.

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.

That part of the Petitioner's request for corrective action that exceeds the foregoing be denied.

That no further changes be made to Petitioner's naval record.

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

10/20/2022

