



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

█  
Docket No. 7863-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █  
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Ref: (a) 10 U.S.C. § 1552  
(b) MCO 1900.16 w/CH2 (MARCORSEPMAN)  
(c) Uniform Code of Military Justice (UCMJ)  
(d) MCO P1070.12K (IRAM)

Encl: (1) DD Form 149 w/enclosures  
(2) Page 11 (6105) counseling entry, 20 Apr 22  
(3) Page 11 counseling entry, 21 Apr 22  
(4) CO, █ ltr, 22 Aug 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 his naval record be corrected by removing the Administrative Remarks (Page 11) entry “in regards to non-judicial punishment that took place on 21 April 2022.”

2. The Board, consisting of █ reviewed Petitioner’s allegations of error and injustice on 8 December 2022, and pursuant to its regulations, determined 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. On 20 April 2022 Petitioner was issued a 6105 counseling entry in accordance with reference (b) due to violation of Article 113 (Drunken or reckless operation of a vehicle) of reference (c).<sup>1</sup> Specifically, while aboard Marine Corps Air Station █ on 9 April 2022, Petitioner operated a vehicle in the barracks parking lot while under the influence of alcohol. Petitioner elected to not submit a written rebuttal in response to the counseling. Enclosure (2).

b. On 21 April 22 the Commanding Officer (CO), Marine Aviation Logistics Squadron █  
█ imposed nonjudicial punishment (NJP), finding Petitioner guilty of violation of

<sup>1</sup> Reference (d), para 4006.2(p) states commanders will direct a service record book entry be made after counseling a Marine for any alcohol-related misconduct. An alcohol-related incident occurs when a CO determines a Marine committed a violation of reference (c) and the consumption of alcohol was a contributing factor.

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Article 133. Due to the NJP, Petitioner was issued a Page 11 entry wherein he acknowledged his promotion restriction status for six months due to the NJP. Enclosures (3) and (4).

c. On 22 August 2022 the CO, [REDACTED] set aside the NJP because he had determined the NJP was unjust and disproportionate to the offense; restored all rights, privileges, and property; and requested Headquarters Marine Corps (HQMC), Manpower Management Records and Performance Branch, remove all references to the NJP hearing. See Enclosure (4).

d. Petitioner contends his requested relief should be granted because the NJP was set aside by the Squadron Commander who rendered the punishment, and that the Unit Punishment Book entry has already been removed by HQMC. See Enclosure (1).

## CONCLUSION

Upon review and consideration of all the evidence, the Board determined Petitioner's request warrants partial relief. The Board noted Petitioner did not specify which counseling entry he was requesting be removed beyond stating "[remove] Page 11 in regards to non-judicial punishment that took place on 21 April 2022." Of note, enclosures (2) and (3) has two counseling entries in Petitioner's record: one dated 20 April 2022 which does not mention NJP and the other, dated 21 April 2022 which notifies Petitioner he is in a restricted promotion status "due to [his] non-judicial punishment." In the interest of justice, the Board carefully considered removal of both counseling entries at enclosures (2) and (3).

The Board determined the counseling entry dated 20 April 2022, which meets the requirements of reference (b), creates a permanent record of an alcohol-related incident which Petitioner's CO was required to provide counseling for and which the CO deemed significant enough to document. The Board noted the CO set aside the NJP but enclosure (4) did not state the violation did not occur but only that the NJP was "unjust and disproportionate to the offense." The Board determined the CO's set aside request should not be interpreted to endorse the removal of the 20 April 2022 counseling entry and concluded there was insufficient evidence of an error or injustice warranting removal of that counseling entry.

However, the Board determined the 21 April 2022 promotion-restriction entry should be redacted from the Page 11 at enclosure (2) because the entry referenced the 21 April 2022 NJP that has been set aside.

## RECOMMENDATION

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

Petitioner's naval record be corrected by redacting the Administrative Remarks (Page 11) promotion-restriction entry of 21 April 2022 at enclosure (3). The 20 April 2022 counseling Petitioner for the alcohol-related incident shall remain in his official military personnel file.

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

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[REDACTED]

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 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.

1/6/2023

[REDACTED]

Deputy Director

[REDACTED]