



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

[REDACTED]  
Docket No. 9153-22  
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 1070.12K w/CH 2

Encl: (1) DD Form 149 w/attachments  
(2) Administrative Remarks (page 11) entry, 26 Jan 22  
(3) Administrative Remarks (page 11) entry, 20 Apr 22  
(4) Administrative Remarks (page 11) entry, 13 Jun 22  
(5) State of [REDACTED] file No. [REDACTED]  
(6) [REDACTED] ltr, 30 Nov 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 to remove enclosures (2), (3), and (4).
2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 January 2023 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
  - a. On 7 April 2021, Petitioner was arrested and charged with assault inflicting serious bodily injury, felony conspiracy, and misdemeanor assault inflicting serious injury. Pursuant to reference (b), Petitioner was issued page 11 entries on 26 January 2022, 20 April 2022, and 13 June 2022 notifying him that he was selected but will not be promoted to Corporal due to pending adjudication of charges by the civil court. Petitioner acknowledged the entries and elected not to make a statement. Enclosures (2), (3), and (4).
  - b. On 11 August 2022, Petitioner's counseled filed a petition in civil court for the expunction of Petitioner's charges. A document filed in the General Court of Justice, [REDACTED], indicates that Petitioner's charges were dismissed on 6 April 2022, and the charge for misdemeanor assault inflicting serious injury was subsequently dismissed on 9 August 2022. Enclosure (5).

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c. In his application, Petitioner provides that his civil court case was dismissed and expunged on 9 August 2022. In correspondence from Petitioner's Commanding Officer (CO) dated 30 November 2022, he recommended the removal of Petitioner's page 11 entries, due to the dismissal of charges and expungement of the associated records. Enclosure (6).

#### CONCLUSION

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

The Board noted that Petitioner's contested page 11 entries were properly issued pursuant to reference (b). The Board, however, was compelled by Petitioner's evidence and the CO's recommendation to remove the contested page 11 entries due to the civil court expungement of Petitioner's record.

#### RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (2), (3), and (4).

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

1/23/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]