



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

[REDACTED]  
Docket No. 9320-22  
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) Title 10 U.S.C. § 1552  
(b) MCO 1900.16 CH 2  
(c) MCO 1070.12K w/CH 2

Encl: (1) DD Form 149 w/attachments  
(2) Administrative Remarks (Page 11) 6105 Counseling Entry, 19 Mar 20  
(3) Rebuttal to 6105 Counseling Entry, 20 Mar 20  
(4) [REDACTED] ltr, 5 Dec 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) and (3).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 17 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 19 March 2020, pursuant to paragraph 6105 of reference (b), Petitioner was issued a 6105 counseling entry counseling him for failing to consume alcohol responsibly, which hindered his ability to demonstrate sound judgment and decision making. Specifically, Petitioner's lack of judgment as the senior Marine present resulted in his separation from his fellow Marines which caused a loss of accountability. During this period Petitioner was apprehended and taken into custody by the [REDACTED] Police Department on 23 February 2020 at 0217 for urinating in public. Petitioner acknowledged the entry and in his statement, Petitioner indicated that he completely understood the consequences of his actions and took full responsibility for his actions. Enclosures (2) and (3).

b. In correspondence from Petitioner's former first sergeant (1stSgt), the 1stSgt noted that Petitioner was issued a 6105 counseling following procedures that were deemed correct at the time according to the previous version of reference (b). However, after reviewing the significant changes to reference (b) dated 15 February 2019 it is evident that improper procedures were conducted by not having the Battalion Commanding Officer (CO) sign the counseling entry. Enclosure (4).

c. In his application, Petitioner contends that the company leadership failed to ensure the counseling entry was signed by the Battalion Commander in accordance with reference (b). Which states that, "The commanding officer must sign adverse page 11 entries." Furthermore, reference (b) updated the definition of "Commander/Commanding Officer" to include ". . . exercises special court-martial convening authority." Petitioner also contends that his leadership did not follow the changes by including an erroneous adverse counseling entry into his record. Petitioner claims that he was not aware of the changes until a subsequent 1stSgt identified the matter during a review of his record. Petitioner offered that the rebuttal still remains the same, however, due to the erroneous procedures, he believes this document should also be removed from his record. Enclosure (1).

## CONCLUSION

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

The Board noted that Petitioner's request has merit. In this regard, the Board noted that the contested counseling entry was issued pursuant to reference (b), which requires counseling entries issued under paragraph 6105 to be issued and signed by the Commander/Commanding Officer who, by virtue of rank and assignment and United States Navy Regulations 1990 W/CH 1, exercises special court-martial convening authority and primary command authority over a military organization or prescribed territorial area that under pertinent official directives is recognized as a command. In this case, the Battalion CO would have been the appropriate issuing official instead of the Company CO. The Board determined that Petitioner provided sufficient evidence that the contested entry was issued contrary to reference (b). The Board also noted the basis for the counseling entry and that Petitioner took full responsibility for his actions. The Board also determined that it was clearly the Company CO's intent to document Petitioner's misconduct as a matter that formed an essential and permanent part of Petitioner Military history. The Board, noted, too that reference (c) permits a Company CO to issue a page 11 entry regarding an adverse matter, as long as the entry includes a statement affording the member an opportunity to submit a statement. According to reference (c), the Company CO is authorized to issue a page 11 entry pursuant to paragraph 4006.2.e. Based on the fore going, the Board determined that Petitioner's counseling entry should be redacted to comply with reference (c).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

RECOMMENDATION

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

Petitioner's naval record be corrected by redacting enclosure (2) by removing the statements:

“In accordance with the requirements of MARCORSEPMAN par 6105.”

and

“Failure to take corrective action and any further violations of the UCMJ, disciplinary action, or incidents requiring formal counseling may result in judicial or adverse administrative action, including but not limited to administrative separation. I understand that failure to complete my enlistment contract with an honorable characterization of service may preclude my eligibility for benefits from the Department of Veterans Affairs or other organization and have an adverse effect on future civilian employment.”

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.

1/31/2023

[REDACTED]  
Deputy Director  
[REDACTED]