



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

██████████  
Docket No. 608-23  
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) 10 U.S.C. § 1552  
(b) MCO 1900.16 CH 2

Encl: (1) DD Form 149 w/enclosures  
(2) NAVMC 10132 UPB, 22 Jul 22  
(3) NAVMC 118(11) Administrative Remarks 6105 and Page 11 entries, 22 Jul 22  
(4) Fitness report for the reporting period 1 Apr 22 to 22 Jul 22  
(5) CO, ██████████ ltr 5800 S-1, 26 Sep 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 removal of her 22 July 2022 non-judicial punishment (NJP), Administrative Remarks 6105 and Page 11 entries, and fitness report for the reporting period 1 April 2022 to 22 July 2022.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 14 March 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. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found that, before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy, except for the removal of her fitness report. The Board made the following findings:

a. On 22 July 2022, Petitioner received NJP for violating Article 91, Uniform Code of Military Justice (UCMJ) for disrespect towards a Staff Non-Commissioned Officer (SNCO). Petitioner accepted NJP, acknowledged her Article 31 Rights, appealed the commanding officer's (CO) finding of guilty at NJP, and her appeal was denied. Petitioner was awarded reduction in rank to Corporal (Cpl/E-4), extra duty, restriction, and forfeiture of pay. Enclosure (2).

b. On 22 July 2022, pursuant to reference (b), Petitioner was issued a 6105 counseling entry documenting the NJP. On the same date, Petitioner was issued a page 11 entry notifying her that she is not recommended for promotion to the next higher grade due to her NJP. Petitioner

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

acknowledged both entries, elected to submit a statement regarding the NJP, however, there is no record of a rebuttal statement in her record. Enclosure (3).

c. Petitioner was issued a fitness report for the reporting period 1 April 2022 to 22 July 2022 marked adverse for disciplinary action. Section I of the fitness report includes a directed comment noting that Petitioner “was the subject of NJP in violation of Article 91 of the UCMJ, Disrespect toward a Staff Noncommissioned Officer.” Enclosure (4).

d. In correspondence dated 26 September 2022, the CO, Marine Aviation Logistics Squadron [REDACTED] aside Petitioner’s NJP. Enclosure (5).

e. In her application, Petitioner contends that the NJP, adverse fitness report, and the associated counseling entries should be removed based on the CO’s letter setting aside her NJP.

## CONCLUSION

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

In this regard, the Board noted the correspondence from Petitioner’s CO’s setting aside her NJP. The Board also noted that after a review of Petitioner’s record, the UPB had not yet been removed. The Board determined that based upon the CO’s decision to set aside Petitioner’s NJP, the UPB should be removed from Petitioner’s record.

The Board also noted that pursuant to reference (b), Petitioner was issued a 6105 page 11 counseling entry her regarding her recent NJP and for her display of disrespect toward a SNCO. The Board determined that it was clearly the intent of the Commander that imposed NJP to document Petitioner’s misconduct as it was his right to do. Although Petitioner’s CO set aside the NJP, he was not the Commander that imposed NJP, nor did he provide any reasoning or mitigating factor to justify his decision to set aside the NJP. The Board also determined that Petitioner’s underlying misconduct formed the basis for the 6105 counseling entry and concluded that the counseling entry was warranted. However, since the NJP was set aside, the 6105 counseling entry should be redacted to remove any mention of the NJP. Concerning Petitioner’s page 11 entry notifying her that she is not recommended for promotion for six months due to her NJP, the Board determined that the page 11 entry is no longer valid and should be removed.

Concerning Petitioner’s request to remove her fitness report for the reporting period 1 April 2022 to 22 July 2022, the Board determined that Petitioner did not exhausted her administrative remedies by submitting an appeal to the Performance Evaluation Review Board (PERB) according to the Marine Corps Performance Evaluation Appeals Manual.

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

## RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2).

Petitioner's naval record be corrected by redacting the following statement from Petitioner's 6105 counseling entry, enclosure (3): "my recent NJP on 20220722"

Petitioner's naval record be corrected by removing the 22 July 2022 page 11 entry not recommending Petitioner for promotion, enclosure (3).

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 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. Petitioner must first exhausted her administrative remedies by submitting an appeal to the PERB to request removal of her fitness report. Petitioner's 6105 counseling entry will be redacted, however, will remain in Petitioner's naval records as abovementioned.

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.

3/30/2023

[REDACTED]  
Deputy Director

Signed by: [REDACTED]