



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

█
Docket No. 1387-23
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) Uniform Code of Military Justice
(c) MCO P1070.12K (IRAM)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) counseling entry, 7 Jun 2019
(3) █ memo, subj: Application for Correction of Military Records
ICO [Petitioner] (undated)

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 enclosure (2). If enclosure (2) is removed by the Board, Petitioner also requests remedial promotion consideration.

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 13 April 2023 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. On 7 June 2019, Petitioner was issued a counseling entry for being "directly responsible for four at fault accidents occurring on 28 September 2017, 10 October 2017, 15 May 2018, 23 May 2019, along with 48 other moving violations." Further, the entry states his "lack of attention, disregard for safety, and carelessness resulted in the damage to government and private property in excess of \$8,000.00." By signing the counseling entry, Petitioner acknowledged receipt. The entry indicates Petitioner chose not to make a rebuttal statement to be filed with the counseling entry in his Official Military Personnel File (OMPF). Enclosure (2).

b. Petitioner contends the statement regarding the 48 moving violations is incorrect. In support of his contention, he submitted enclosure (3), an undated memo from the Commanding

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Officer (CO) who issued the counseling at enclosure (2). The CO requests removal of the counseling entry from Petitioner's OMPF because the "counseling has served its administrative purpose" and removal provides a promotion board with "an unobstructed view of [Petitioner's] potential." Further, the CO explains that the "48 moving violations" annotated on the counseling entry "were not official citations for traffic violations, but a count of how many times the camera inside the government vehicle...went off and started recording." Additionally, the CO states the camera recordings do not correlate with any traffic infractions and Petitioner was not issued any traffic citations during his special duty assignment in Recruiting Station [REDACTED].

CONCLUSION

Upon review and consideration of all the evidence, the Board concluded Petitioner's request warrants partial relief.

The Board considered enclosure (3), the request to remove the counseling entry, but noted the CO only explained the 48 moving violations but completely failed to address the four "at fault accidents" that resulted in over \$8,000.00 worth of damages to government and private property. The Board determined the CO's silence on the gravamen of the counseling entry indicated the counseling entry accurately described Petitioner's "lack of attention, disregard for safety, and carelessness" and declined to remove the counseling entry because the entry creates a permanent record of matters the CO – at the time – deemed significant enough to document and, even with the support articulated in enclosure (3), he still, through his silence, deems significant enough to document. The Board concluded there was insufficient evidence of an error or injustice warranting removal of the counseling entry.

However, in light of the CO's explanation of the "48 other moving violations," the Board determined that language should be redacted from the counseling entry.

Because the Board did not grant Petitioner's requested relief, the Board, noting Petitioner has been promoted to Staff Sergeant with the entry in his OMPF, did not consider his request for remedial promotion consideration.

RECOMMENDATION

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

Petitioner's naval record be corrected by redacting the following language from the Page 11 counseling of 7 June 2019 at enclosure (2): "along with 48 other moving violations." The sentence, after the redaction, should read: "You are directly responsible for four at fault accidents occurring on 28 September 2017, 10 October 2017, 15 May 2018, and 23 May 2019."

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.

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[REDACTED]

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.

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.

5/1/2023

[REDACTED]

Deputy Director

[REDACTED]