



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

[REDACTED]
Docket No. 2247-23
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] / [REDACTED] USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1070/12K (IRAM)
(c) MCO 1900.16 (MARCORSEPMAN)

Encl: (1) DD Form 149 w/enclosures
(2) Non-judicial Punishment (NJP)/Unit Punishment Book (UPB), 2 Jun 21
(3) Administrative Remarks (Page 11) 6105 Counseling Entry, 2 Jun 21
(4) Administrative Remarks (Page 11) Promotion Restriction Entry, 2 Jun 21
(5) CO, H&S Co, [REDACTED] ltr 5800-82 H&S CO, 4 Nov 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 that his naval record be corrected by removing enclosures (2) through (4) from his official military personnel file (OMPF).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 28 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 the 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 2 June 2021, Petitioner received NJP for violation of Article 92 of the Uniform Code of Military Justice for failure to obey an order or regulation. Petitioner was also issued counseling and promotion restriction entries as a result of his NJP, in accordance with references (b) and (c). Enclosures (2) – (4).

b. On 4 November 2022, the commanding officer (CO) who administered the NJP, set aside the NJP as he determined Petitioner's moral ethics, character, and willingness to keep serving under unjust circumstances, resulted in a "clear injustice" at the time. The CO directed that the NJP be removed from Petitioner's official record and all rights, privileges, and property to be restored. Enclosure (5).

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c. Petitioner contends that the NJP was set aside, however, due to a potential administrative error, there are duplicates in his OMPF, which could potentially hold him back from becoming a staff non-commissioned officer.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief. In this regard, the Board determined, based on the CO's action to set aside the NJP and direct the removal of said NJP, there should be no documents referencing the NJP in Petitioner's official record. As such, the Board concluded that the NJP, and all duplicate copies, shall be removed from Petitioner's OMPF.

With regards to the counseling and promotion restriction entries, the Board determined that both entries were valid at the time of issuance and in accordance with references (b) and (c). However, the Board noted that the entries referenced the NJP proceedings and, therefore, deemed the entries invalid. The Board concluded that the counseling and promotion restriction entries, and all duplicate copies, shall be removed from Petitioner's OMPF.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2), his 2 June 2021 UPB/NJP, enclosure (3), his 2 June 2021 6105 counseling entry, enclosure (4), his 2 June 2021 Page 11 promotion restriction entry, and all duplicate copies from his OMPF.

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.

4/25/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]