



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

[REDACTED]  
Docket No. 2667-23  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] [REDACTED]  
[REDACTED]

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

Encl: (1) DD Form 149 w/enclosures  
(2) Administrative Remarks (Page 11) 6105 counseling entry, 23 Nov 20  
(3) Petitioner's 6105 rebuttal, 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 that his naval record be corrected to remove enclosures (2) and (3) from his official military personnel file.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 25 April 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 23 November 2020, Petitioner was issued enclosure (2) for violation of Article 113 of the Uniform Code of Military Justice, for drunken or reckless operation of a vehicle. Petitioner's officer-in-charge, and not his commanding officer (CO), issued the counseling entry. The Petitioner acknowledged and signed the entry, and chose to submit a statement. In Petitioner's statement at enclosure (3), he asserted that, to his knowledge, he did not have pending criminal charges in a civilian or military judicial system, he maintained his innocence as he believed the action was brash and unjust, and he has a constitutional right to be presumed innocent until proven guilty.

b. Petitioner contends that the counseling entry was not issued in accordance with reference (b), as the CO was not the endorsing official.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error, in part, warranting partial relief. In this regard, the Board determined that although enclosure (2) did not comply with reference (b) at the time of issuance, as it was not signed by the CO, the counseling entry is in accordance with reference (c) since it is an alcohol-related incident. The Board further determined the counseling entry is a matter of record based on the facts at the time of issuance. Thus, the Board determined it is appropriate that enclosure (2) remain in Petitioner's record after the language referencing judicial or adverse administrative action, including being processed for administrative separation, is redacted. Based on this finding, the Board also determined Petitioner's rebuttal statement to the counseling shall remain in his record.

## 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 enclosure (2), Petitioner's counseling entry dated 23 November 2020:

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 any enlistment contract with an honorable characterization of service may preclude my eligibility from benefits from the Department of Veterans Affairs or other organizations 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 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.

5/12/2023

[REDACTED]