



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

█
Docket No. 2935-23
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) Title 10 U.S.C. § 1552
(b) MCO 1900.16 (MARCORSEPMAN)
(c) MCO 5300.17A

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) 6105 counseling entry of 24 May 22
(3) Fitness Report for the reporting period 8 Mar 2022 to 21 Jul 2022
(4) CO, █ ltr 1900 CO of 3 Aug 22
(5) Administrative Remarks (Page 11) 6105 counseling entry of 5 Aug 22
(6) Petitioner rebuttal to counseling entry of 5 Aug 22
(7) CO, █ ltr of 23 Nov 22
(8) Clinical Psychologist, █ NMC ltr of 10 Jan 23
(9) Licensed Clinical Psychologist, BCNR ltr of 17 Oct 23

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 removal of his 5 August 2022 Administrative Remarks 6105 counseling entry.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 14 November 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. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. On 24 May 2022, Petitioner received an Administrative Remarks 6105 counseling entry for violation of Article 113, Drunken or reckless operation of a vehicle, aircraft, or vessel. Specifically, on 6 March 2022, a █ officer arrested Petitioner for completing a breathalyzer that resulted in a blood alcohol content level above the legal limit.

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Petitioner acknowledged the entry and chose not to make a statement. Subsequently, Petitioner received an adverse fitness report for violating article 113 and subsequent receipt of the counseling entry. Enclosures (2) and (3).

c. On 3 August 2022, the Commanding Officer (CO) notified Petitioner that she intended to recommend to Headquarters Marine Corps (HQMC) that he be discharged pursuant to paragraph 6209 of reference (b) by reason of Alcohol Abuse Rehabilitation Failure. Specifically, on 13 June 2022, Petitioner was ordered by competent medical authority to abstain from the use of alcohol and other substances for one year. On 13 July 2022, during a visit to [REDACTED], Ethanol was detected in Petitioner's blood which constituted a rehabilitation failure. Enclosure (4).

d. On 5 August 2022, Petitioner received another Administrative Remarks 6105 counseling entry for violation of Article 92, Failure to obey an order or regulation. Specifically, upon completion of the Substance Abuse Residential Treatment on or around 13 June 2022, Petitioner was ordered by competent medical authority to abstain from the use of alcohol for one year. However, on 13 July 2022, during a visit to [REDACTED], ethanol was detected in his blood constituting a rehabilitation failure. As such, he was notified that he was being processed for Administrative Separation due to alcohol-abuse rehabilitation failure. Petitioner acknowledged the entry and, in his rebuttal, he denied the allegation. Enclosures (5) and (6).

e. On 23 November 2022, Naval Medical Center notified Petitioner's CO of his completion of the SARP Continuing Care Treatment Program. He also informed his CO that pursuant to reference (c), Petitioner is required to maintain a career free of any subsequent substance abuse and recommended that he abstain from alcohol use and addicting substances. See Enclosure (7).

f. In a letter to the Board, on behalf of the Petitioner, his former Substance Abuse Rehabilitation Program (SARP) Psychologist states that he met Petitioner in April of 2022 while he was a SARP patient. Petitioner was diagnosed with Post Traumatic Stress Disorder (PTSD), moderate to severe and a diagnosis of Alcohol Use Disorder, Severe. He asserts that Petitioner was using alcohol to deal with his PTSD, a condition that had never been treated. He further states that Petitioner had a difficult time finding a therapist to continue his mental health treatment and relapsed during that time. However, he concluded that since Petitioner received the counseling entry, he has found a good therapist and has been alcohol free. Enclosure (8).

g. Petitioner contends that enclosure (5) should be removed because the administrative separation board did not occur. He also claims that all negative paperwork should have been removed, but that the counseling entry was entered into his Official Military Personnel File (OMPF). Finally, he contends that he is in receipt of permanent change of station orders and his extension package is currently pending with the career planner with a counseling entry that should not be in his official record.

h. An advisory opinion (AO) furnished by the Licensed Clinical Psychologist to address the mental health claims of the Petitioner. The AO states in pertinent part:

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During military service, the Petitioner has been diagnosed with PTSD and Alcohol Use Disorder, severe. He has participated in treatment for both. There is evidence that his alcohol use is related to symptoms of PTSD. There is evidence of an alcohol-related incident following treatment for alcohol use disorder. There is evidence of treatment of PTSD and anxiety symptoms in 2017 and 2021, prior to the 2022 SARP enrollment. Treatment records indicate the Petitioner may have minimized mental health symptoms.

The AO concluded, “it is my clinical opinion there is evidence of a diagnosis of PTSD attributed to military service. There is evidence of a diagnosis of Alcohol Use Disorder that worsened during military service. There is evidence that his misconduct was related to mental health concerns. There is evidence of treatment for alcohol use disorder followed by continued use of alcohol.” Enclosure (9).

CONCLUSION

Upon review and consideration of all the evidence of record the Board determined that Petitioner’s request warrants partial relief.

The Board concurred with the AO that there is evidence of a diagnosis of Alcohol Use Disorder that worsened during Petitioner’s military service as well as evidence of treatment for alcohol use disorder followed by the continued use of alcohol. The Board also noted the AO’s opinion that his misconduct was related to mental health concerns. However, the Board determined Petitioner provided insufficient evidence that he did not disobey a direct order to abstain from the use of alcohol and other substances for one year, after he was ordered to do so by competent medical authority. Further, the Board noted although Petitioner provided evidence to conclude he was processed for administrative separation pursuant to reference (b), there was insufficient evidence to determine the outcome of the ADSEP Board. However, the Board determined based upon the available evidence it was plausible to conclude that he was retained on active duty. Thus, in accordance with reference (b), the Board determined that enclosure (5) should be modified by redacting any mention of his administrative separation proceedings.

Notwithstanding the recommended corrective action below, the Board concluded enclosure (5) should not be removed from Petitioner’s record. The Board determined the evidence in his record supports his violation of Article 92, failure to obey an order or regulation. Moreover, the Board determined it was the commanding officer’s determination to issue the counseling entry and process Petitioner for administrative separation based upon a preponderance of evidence. Moreover, an administrative separation board’s purpose is to determine a Marine’s suitability to continue to serve on active duty not to prove one’s guilt or innocence. The Board thus concluded there was insufficient evidence of error or injustice to remove enclosure (2) from Petitioner’s Official Military Personnel File.

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RECOMMENDATION

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

Petitioner's naval record be corrected by redacting enclosure (5) by removing the following statements:

"I understand that I am being processed for the following judicial or adverse administrative action: Administrative separation IAW MCO 1900.16, paragraph 6210.6."

That no further relief be granted.

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.

12/10/2023

