



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

█
Docket No. 4107-23
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

Encl: (1) DD Form 149 w/attachments
(2) NAVMC 10132 UPB/NJP of 23 Jan 23
(3) NAVMC 118(11) Administrative Remarks undated
(4) █ ltr 1000 █ of 16 Mar 23

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting to remove the 23 January 2023 unit punishment book (UPB)/non-judicial punishment (NJP) and the undated Administrative Remarks (page 11) entries. Petitioner also request to update the Marine Corps Total Force System to reflect the proper punishment and history statement.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 1 June 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. The Board made the following findings:

a. On 23 January 2023, Petitioner received NJP for violating Article 121, Uniform Code of Military Justice (UCMJ) by stealing multiple food and drink items valued under \$30 from the Navy Exchange. Petitioner was awarded reduction to private first class (PFC/E-2), forfeitures of pay, restriction, and extra duties. Enclosures (2).

b. Petitioner was issued a 6105 page 11 entry counseling him for being caught stealing multiple food and drink items valued under \$30. Petitioner was also notified that he is eligible but not recommended for promotion to lance corporal (LCpl) for three months due to his recent NJP. Enclosure (3).

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

c. In correspondence dated 16 March 2023, Petitioner's Commanding Officer (CO), the officer that imposed NJP, noted that he found Petitioner guilty at NJP for violating Article 121, UCMJ and awarded him forfeitures of pay, extra duties, and reduction to the next inferior pay grade (suspended for six months). He claims that he annotated the suspension next to the reduction block on the NAVPERS 1626/7 (Report of Disposition and Offenses) at the time of the proceedings. However, he did not place a check in the block for punishment suspension since he did not intend to suspend the entire punishment, only the reduction in rank. The CO explained that the UPB and counseling entry prepared after the proceedings did not reflect his decision to suspend the reduction in rank. The CO also noted that this was an administrative oversight. Enclosure (4).

d. In his application, Petitioner contends that due to administrative oversight, the UPB did not have the proper blocks filled out to display that the reduction in grade was suspended. Petitioner also contends that the counseling entry was for a three month suspension instead of six. Enclosure (1).

CONCLUSION

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

The Board considered the correspondence furnished by the CO that imposed NJP and determined it contains sufficient justification to modify enclosures (2) and (3). However, the Board also determined that the NJP was conducted according to the Manual for Courts-Martial (2019 ed.) and the counseling entries were written and issue according to regulations. Therefore, the Board found insufficient evidence of a material error or injustice warranting removal of the NJP or counseling entries from Petitioner's record.

RECOMMENDATION

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

Petitioner's naval record be corrected by modifying enclosure (2) by changing block 22, Additional remarks, Item 7 (Suspension of Execution of Punishment, if any), by removing, the statement, "None. 23 Jan 23" and adding the statement, "Reduction to PFC (E-2) suspended for six months, unless sooner vacated."

Petitioner's naval record be corrected by modifying enclosure (3), specifically, the counseling entry notifying Petitioner that he is eligible but not recommended for promotion by changing the statement:

"LCpl due to recent NJP restriction IAW MCO P1400.32D,
for a period of three months"

to

"Cpl due to recent NJP restriction IAW MCO P1400.32D,
for a period of six months"

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

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.

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.

6/13/2023

[REDACTED]
Executive Director

Signed by: [REDACTED]