



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

██████████
Docket No. 9019-23
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 P1070.12K (IRAM)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) 6105 counseling entry, 9 Jun 21
(3) Administrative Remarks (Page 11) Promotion Restriction entry, 9 Jun 21
(4) Senior Member, Administrative Discharge Board Report, 28 Oct 21

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).

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. 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 9 June 2021, Petitioner received a 6105 counseling entry for violation of Article 128b, Domestic Violence of the Uniform Code of Military Justice for wrongfully assaulting Petitioner's legal spouse. Subsequently, Petitioner received a Promotion Restriction entry notifying him he was restricted for promotion due to pending administrative separation for a period of 12 months. Enclosures (2) and (3).

b. On 28 October 2021, Petitioner's administrative separation board unanimously found that the preponderance of evidence does not prove any of the acts or omissions alleged, and Petitioner was retained on active duty. Enclosure (4).

c. Petitioner contends that the counseling entries should be removed because he was acquitted based upon the administrative separation boards finding and that none of the alleged acts or omissions were true.

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XXX XX [REDACTED] USMC

CONCLUSION

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

In this regard, the Board noted that Petitioner's administrative separation board recommended he be retained on active duty. Pursuant to reference (b), the Board determined that enclosures (2) and (3) should be modified by redacting any mention of his administrative separation proceedings. Notwithstanding the recommended corrective action below, the Board determined the two counseling entries should not be removed from Petitioner's record. In this regard, the Board determined it was the commanding officer's determination to issue the counseling entries and processing Petitioner for administrative separation was 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 and is not convened to prove one's guilt or innocence. The Board thus concluded, Petitioner provided insufficient evidence of error or injustice to remove the counseling entries in their entirety from Petitioner's naval record.

RECOMMENDATION

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

Petitioner's naval record be corrected by redacting enclosures (2) and (3) by redacting 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." Enclosure (2).

"due to pending administrative separation" Enclosure (3).

That no further changes be made to Petitioner's naval record.

That a copy of this report of proceedings will NOT be filed in 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.

11/22/2023

