



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

██████████
Docket No. 10262-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████
██████████ 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) Administrative Remarks (Page 11) 6105 counseling entry of 4 Nov 19
(3) Petitioner rebuttal statement of 6 Nov 19
(4) CO, ██████████ ltr of 15 Dec 20

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 an Administrative Remarks (Page 11) 6105 counseling entry dated 4 November 2019 from his official military personnel file (OMPF).

2. The Board, consisting of ██████████ and ██████████, reviewed Petitioner's allegations of error and injustice on 16 January 2024, 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. On 4 November 2019, Petitioner was issued enclosure (2) for violating the Weapons Company Deployment Guidance by demonstrating a pattern of misconduct through his insubordinate behavior. Petitioner was also notified that failure to take corrective action may result in judicial or adverse administrative action. The Company Commanding Officer (CO) signed the entry. The Petitioner acknowledged and signed the entry, and submitted a statement. Enclosure (3).

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c. On 15 December 2020, the former Battalion CO, [REDACTED] Battalion, [REDACTED] Marines, submitted a favorable endorsement, stating that the Company CO did not have the proper authority to issue a 6105 counseling entry. Therefore, he requested the Page 11 6105 be removed. Enclosure (4).

d. Petitioner contends that while deployed, he was improperly issued the Page 11 6105 by his Company CO and it was not routed to the Battalion leadership. The Petitioner asserts that the entry provides a vague account of the infraction and did not provide adequate guidance.

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 enclosure (2) did not comply with references (b) and (c) at the time of issuance as the Company CO did not have the authority to issue a Page 11 6105 counseling entry. The Board thus concluded that the language referencing Petitioner may be processed for administrative separation shall be removed.

Notwithstanding, the Board found that the remaining portion of the Page 11 entry to be a matter of record based on the facts the CO had at the time of issuance. In making this finding, the noted Petitioner admitted to the documented deficiency. Thus, the Board determined the Page 11 entry, as redacted, shall remain in Petitioner's 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 Page 11 entry dated 4 November 2019:

"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 in administrative separation. I understand that failure to complete my enlistment contract with an honorable characterization of service may preclude my eligibility for benefits from the Department of Veterans Affairs or other organizations and have an adverse effect on future civilian employment."

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.

No further changes be made to Petitioner's 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.

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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.

2/14/2024

