



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

[REDACTED]
Docket No: 3020-16

JUN 07 2017

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

Subj: REVIEW OF NAVAL RECORD

ICO [REDACTED]

USMC

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments
(2) Subject's naval record (excerpts)
(3) Administrative Remarks entry dtd 19 Feb 15
(4) Petitioner's rebuttal statement dtd 19 Feb 15
(5) HQMC ltr 1610 MMRP-13/PERB dtd 15 Mar 16
(6) HQMC memo 1070 MIQ dtd 20 Dec 16

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting to remove Administrative Remarks (6105) dated 19 February 2015 from his Official Military Personnel File (OMPF).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 17 March 2017, 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 enclosures (1) through (5), 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. Enclosure (1) was filed in a timely manner.

c. Petitioner received an Administrative Remarks (Page 11) counseling dated 19 February 2015 for violation of Article 92 of the Uniform Code of Military Justice (UCMJ) per enclosure (3). The Petitioner refused to provide assistance to another Marine during a period of instructions.

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d. Petitioner provided a rebuttal statement dated 19 February 2015 per enclosure (4). The Petitioner contends that his comment "I'll take this all the way to NJP if I have to..." was said out of frustration due to his command forcing him to work with another Marine. The relation between the Petitioner and Marine has been considered hostile.

e. Headquarters Marine Corps (HQMC) granted the removal of the Petitioner Fitness Report for the reporting period of 1 April 2014 to 31 March 2015 per enclosure (5). The Petitioner received his Page 11 counseling during this reporting period.

f. HQMC provided a favorable advisory opinion in response to the Petitioner's claim per enclosure (6). The advisory opinion concluded that the Page 11 counseling was uploaded to the Petitioner's OMPF is considered unjust since the command forced the Petitioner to work with another Marine which created a hostile relation between both members.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants relief in the form of removing the Administrative Remarks (6105) entry per enclosure (3).

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

RECOMMENDATION:

Petitioner's naval record be corrected by removing Administrative Remarks (6105) entry dated 19 February 2015 from Petitioner's OMPF.

All duplications of Administrative Remarks relating to the topic in dispute be removed from the Petitioner's OMPF to include any rebuttal statements associated with the Administrative Remarks entry dated 19 February 2015.

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.

[REDACTED]
Recorder

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USMC

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.

[REDACTED]

Executive Director