



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

[REDACTED]
Docket No: 3054-16

MAY 29 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
(b) MCO P1070.12K

Encl: (1) DD Form 149 with attachments
(2) Subject's naval record (excerpts)
(3) NAVMC 118(11) dtd 23 Oct 09
(4) NAVMC 108354A dtd 30 Jan 10
(5) HQMC memo 1070 MIQ 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 an Administrative Remarks (Page 11) dated 23 October 2009, 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 a Page 11 counseling dated 23 October 2009 per enclosure (3) for failure to obey and order or regulation and a general order, which occurred on or about 23 April 2009 per enclosure (3). The Page 11 entry states the Petitioner allowed the spouse of a Non-Commission Officer (NCO) to reside in his home of residence. Since the NCO's spouse was not listed as an authorized occupant on the leasing agreement contract, the Petitioner was in direct violation of the Military Housing Guidelines.

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d. Petitioner asserts the Page 11 counseling entry was provided to him in an unjust manner since his spouse allowed the NCO's spouse to reside in the household without his knowledge or consent of the situation per enclosure (1). During this period, the Petitioner was deployed with [REDACTED] aboard the [REDACTED]

e. Petitioner received a non-adverse Fitness Report for the reporting period of 1 April 2009 to 31 December 2009 per enclosure (4). Moreover, the Petitioner's Reporting Senior (RS) and Reviewing Officer (RO) comments were favorable with a recommendation to promote with peers.

f. HQMC provided a favorable advisory opinion in response to the Petitioner's claim per enclosure (5). The advisory opinion concluded the Page 11 counseling entry should be removed from the Petitioner's OMPF. The Petitioner's Fitness Report provided during the reporting period in which the deficiency took place, failed to mention the commented violation by the RS and RO comments. Moreover, the Petitioner's satisfactory Fitness Report markings contradict the validity of the Page 11 counseling entry.

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 Page 11 counseling entry per enclosure (3) through (5). In addition, the Board felt that the Petitioner was not responsible for allowing the NCO's spouse to reside at his home of residence.

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

RECOMMENDATION:

Petitioner's naval record be corrected by removing the Page 11 counseling entry dated 23 October 2009, from Petitioner's OMPF.

All duplications of the Page 11 counseling relating to the topic in dispute be removed from the Petitioner's OMPF.

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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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.


Executive Director