



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

[REDACTED]
Docket No. 3154-16

JUN 27 2017

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

Subj: REVIEW OF NAVAL RECORD ICO

[REDACTED] USMC

Ref: (a) Title 10 U.S.C. 1552
(b) MCO P1070.12K

Encl: (1) DD Form 149 dtd 4 Feb 16
(2) Petitioner's MOL Leave and Liberty printout
(3) NAVMC 3 n.d.
(4) SgtMaj ltr 1500 S3/TRNG dtd 04 Jan 16
(5) NAMVC 118(11) dtd 21 Jan 16
(6) Petitioner's Rebuttal Statement dtd 27 Jan 16
(7) HQMC memo 1070 MIQ dtd 6 Dec 16

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to remove an Administrative Remarks (Page 11) counseling dated 21 January 2016 from his Official Military Personnel Record (OMPF).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 April 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 the enclosures, 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. On 9 November 2015, the Petitioner submitted a leave request via Marine Online from 18 December 2015 to 5 January 2016. See enclosure (2).

c. On 19 November 2015, the Petitioner's Commanding Officer approved his leave request. See enclosure (2).

d. On 11 December 2015, Petitioner was granted a leave extension . The Petitioner's leave was modified and approved for 11 December 2015. On 11 December 2015, he checked out on leave. See enclosure (2).

e. On 3 January 2016, Petitioner requested a leave extension to reflect 10 January 2016 vice 5 January 2016; it was approved. See enclosures (2) and (3).

f. On 4 January 2016, the Petitioner's command submitted a letter to the Staff Non-commissioned Officer Academy to drop him from the Career Course. The command justified his drop request due to unforeseen hardship, and he was placed on emergency leave. See enclosure (4).

g. On 21 January 2016, Petitioner received a Page 11 counseling entry for the following deficiencies: "Prior to executing annual leave on 11 December 2015, you were fully aware that you were scheduled to attend the SNCO Career Course 2-16 slated to begin on 5 January 2016. However, you failed to return in time to attend the course and you did not communicate your reasons for so doing to your chain of command in a timely manner. As a result you were disenrolled from the course, which reflected poorly on the command." See enclosure (5).

h. On 21 January 2016, Petitioner submitted a rebuttal statement which states the following: "During our time there [leave], my father-in-law's health was deteriorating to the point where it was uncertain if he would survive to see the new year. The plan for our return was to utilize space available travel if feasible and in the event that there were no flights, I would purchase a commercial ticket for myself leaving the rest of my family to follow as flights arose. As we rounded into the New Year the flights did not show up and price of tickets was more than I expected. The financial burden of buying tickets at the elevated prices was more than I was prepared to incur and I had concern that travel would be difficult for my wife and three children by themselves. I contacted the command the next working day prior to SNCO Career Course 2-16 to inform them that I prefer not to attend as planned and would like to extend my leave for another week to ensure that my family made it home safely. The leave extension was approved, a drop letter was submitted through S-3, and I was permitted to take time to escort my family home." See enclosure (6).

i. On 6 December 2016, Headquarters United States Marine Corps (HQMC) provided an unfavorable Advisory Opinion (AO) to the Petitioner's case. The AO indicated that the Petitioner's Page 11 counseling entry was written in accordance with the Marine Corps Individual Records Administrative Manual. Moreover, the Page 11 counseling entry was provided with the intent to properly counsel the Petitioner. The Petitioner failed to demonstrate that the entry was provided in an unjust manner. See enclosure (7).

CONCLUSION

Upon review and consideration of all the evidence of record, and notwithstanding the opinion expressed in enclosure (7), the Board found the existence of an error/injustice to the Petitioner's military record. The Board determined that the Petitioner was provided the Page 11 counseling in an unjust manner. Due to an unexpected hardship while on annual leave, the Petitioner

contacted his command and requested to extend his leave to 10 January 2016. His command approved his leave extension request to 10 January 2016. Moreover, his command submitted a letter of disenrollment to the Staff Non-Commissioned Officer Academy which indicated the Petitioner was on emergency leave due to a family hardship. The Board disagreed with the AO furnished by HQMC and determined the Petitioner provided ample proof that an injustice did occur, and relief should be granted.

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

RECOMMENDATION:

Petitioner's naval record be corrected by removing his Page 11 counseling entry dated 21 January 2016, from his OMPF.

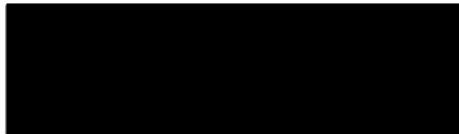
Petitioner's naval record be further corrected by removing his rebuttal statement dated 21 January 2016, from his OMPF.

4. It is certified that 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.



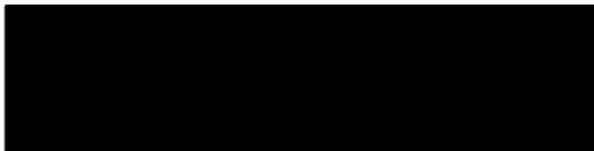
Recorder

5. The foregoing action of the Board is submitted for your review and action.



Executive Director

Reviewed and Approved/~~Disapproved~~



AGC (MRA)
14 July 2017