



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

[REDACTED]  
Docket No: 485-17  
OCT 09 2017

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] USMCR,  
XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. §1552  
(b) MCO 1754.11

Encl: (1) DD Form 149 with attachments  
(2) Administrative Remarks (Page 11) entry of 24 Jul 12

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting removal of the Administrative Remarks (Page 11) counseling entry of 24 July 2012 from his Official Military Personnel File (OMPF) and Electronic Service Record (ESR). Enclosures (1) through (2) apply.
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 2 June 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. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.
  - c. On 24 July 2012, Petitioner was issued an Administrative Remarks (Page 11) counseling because he demonstrated shortfalls in judgment and discipline as evidenced by destruction of government property (base housing) and spousal abuse. See enclosure (2).
  - d. In May 2015, Petitioner's chain of command recommended Petitioner for reenlistment, and in their comments, addressed enclosure (2). Specifically, the Commanding Officer supported the

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XXX-XX-[REDACTED]

removal of the counseling entry and noted that base housing is not government property; it is owned by Lincoln Housing.

e. Reference (b) states "A commander may not take administrative or disciplinary action against a service member based solely upon the Incident Status Determination (ISD) for an act of child or domestic abuse."

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board concludes it is an injustice for the Page 11 counseling entry of 24 July 2012 to remain in Petitioner's OMPF and/or ESR. Petitioner's base housing residence was not government property and, as privatized housing, the resolution of the damages properly belonged between the Petitioner and Lincoln Housing. Additionally, the Board determined the counseling entry regarding spousal abuse was based solely upon the ISD.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

Petitioner's naval record shall be corrected by removing the Page 11 counseling entry dated 24 July 2012 and rebuttal statement dated 28 July 2012 from his OMPF and ESR and any other documentation or record of systems which may reflect or be associated with this Page 11.

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

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