



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

[REDACTED]
Docket No: 793-17
OCT 04 2017

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

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

Ref: (a) 10 U.S.C. §1552
(b) MCO 1900.16 of 26 Nov 13 (MARCORSEPMAN)

Encl: (1) DD Form 149 with attachments
(2) Case Summary
(3) NAVMC 118(11) dtd 20151106
(4) [REDACTED] ltr of 1 Apr 16
(5) NAVMC 118(11) dtd 20151106
(6) NAVMC 118(11) dtd 20160212
(7) NAVMC 118(11) dtd 20160314
(8) [REDACTED] ltr of 29 Nov 16
(9) [REDACTED] tr of 29 Nov 16

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted Marine, filed enclosure (1) with this Board requesting removal from his Official Military Personnel File (OMPF) all Administrative Remarks (Page 11) entries non-recommending his promotion to Corporal (Cpl) and the 6015 retention warning counseling. Additionally, he requested that 1) his eligibility for promotion to Cpl be restored to 1 December 2015, 2) he be promoted to Cpl on 1 December 2015, and 3) he receive all corresponding back pay and allowances. Enclosures (1) through (9) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 29 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 his application, together with any material submitted in support thereof, relevant portions of his naval record 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.

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b. Enclosure (1) was filed in a timely manner.

c. On 6 November 2015, Petitioner received enclosure (3), an adverse counseling entry per paragraph 6105 of reference (b), for lack of judgment on 2 November 2015 when he, a Lance Corporal (LCpl), allowed a Marine Cpl to drive under the influence (DUI) of alcohol. The Cpl was cited by the military police for DUI but the Petitioner, a passenger in the vehicle, was not cited. Per enclosure (4), the Cpl, who received nonjudicial punishment (NJP) and was reduced to LCpl, subsequently had her NJP set aside and her property, privileges, and affected rights restored which included reversion back to Cpl and back pay. Additionally, the Unit Punishment Book (UPB) entry was removed from the Cpl's OMPF.

d. Subsequent to the initial 6105 counseling entry, Petitioner received enclosures (5) through (7), three additional negative counseling entries stating he was eligible but not recommended for promotion to E-4 (Cpl).

e. Enclosure (8) is a recommendation from the Officer in Charge, Legal Services Support Section East and enclosure (9) is a recommendation from the Legal Services Chief, Legal Services Support Section East, both in Petitioner's chain of command, that the Board remove the four adverse counseling entries from Petitioner's OMPF.

f. Petitioner provided evidence that his composite score exceeded the required cutting score to be eligible for promotion to the rank of Cpl on 1 December 2015.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board believes it is unjust for the four adverse counseling entries to remain in Petitioner's OMPF. Additionally, the Board believes Petitioner's promotion date to Cpl should be backdated to 1 December 2015, **providing his composite score met the required cutting score, and he was otherwise qualified for promotion on that date.**

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

RECOMMENDATION

Petitioner's naval record be corrected by removing the following adverse counseling entries:

- 1) 6105 counseling entry dtd 20151106
- 2) Page 11 counseling entry dtd 20151106
- 3) Page 11 counseling entry dtd 20160212
- 4) Page 11 counseling entry dtd 20160314 and corresponding rebuttal statement

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Petitioner's promotion to Cpl be backdated to 1 December 2015, **providing his composite score met the required cutting score, and he was otherwise qualified for promotion on that date.**

Petitioner, if promotion to Cpl is backdated to 1 December 2015, he shall receive all corresponding back pay and allowances.

The Defense Finance and Accounting Service (DFAS) complete an audit of Petitioner's records and make payment of any money that Petitioner may be entitled to.

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