



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

██████████
Docket No: 6873-17
DEC 26 2017

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████ XXX XX ██████████
USMC

Ref: (a) 10 U.S.C. § 1552

Encl: (1) DD Form 149
(2) Administrative Remarks (Page 11) Counseling entry of 17 Jan 17
(3) Administrative Remarks (Page 11) Counseling entry of 3 Feb 17 (1)
(4) Administrative Remarks (Page 11) Counseling entry of 3 Feb 17 (2)
(5) Administrative Remarks (Page 11) Counseling entry of 15 Mar 17

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that his naval record be corrected by removing four Administrative Remarks (Page 11/6105) Counseling entries from his Official Military Personnel File (OMPF).

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 15 November 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, relevant portions of Petitioner's naval records, and applicable statutes, regulations and policies. Enclosures (1) through (5) apply.

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 (2) states in part, that the Petitioner was counseled concerning his violation of Article 86 (Absence without leave). In that he failed to report to ██████████ for morning accountability and a meeting with Sergeant Major.

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XXX XX [REDACTED]

c. Enclosure (3) states in part, that the Petitioner was counseled concerning his violation of Article 91 (Insubordinate conduct). In that he was told that he was not going to be afforded leave in excess of 35 days to execute orders by [REDACTED] due to failure to inform the chain of command prior; and that he requested his port call with a request of 33 days of leave in conjunction with his orders. He disobeyed the direct order that was given to him by [REDACTED]

d. Enclosure (4) states in part, that the Petitioner was counseled concerning having an inappropriate relationship with a Junior enlisted Marine.

e. Enclosure (5) states in part, that the Petitioner was counseled concerning his violation of Marine Corps Order 1000.9A., sexual harassment. In that he made lewd comments that were sexual in nature toward a Lance Corporal, his subordinate.

f. Petitioner contends the following:

Regarding enclosure (2), the Petitioner contends that he utilized his chain of command, and obtained appropriate authority from the person that directed him to be at his appointed place of duty.

Regarding enclosure (3), the Petitioner contends that he was not in violation of any direct order or violation of any Article of the UCMJ. This incident was an attempt by his command to fluff his record so they could initiate a Competency Review Board.

Regarding enclosure (4), the Petitioner contends that the Page 11 was backdated for a previous verbal counseling that he had received from a Staff Sergeant in December 2016.

Regarding enclosure (5), the Petitioner contends that the informal resolution system was utilized in a previous incident. There was no previous incident and no informal resolution used, there was no incident at all.

CONCLUSION

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

In reaching its conclusion, the Board after careful consideration of the Petitioner's record, concluded that enclosures (2), (4) and (5) are valid and written in accordance with Marine Corps directive, and shall remain part of the Petitioner's OMPF.

Regarding enclosure (3), the Board concluded that the Petitioner demonstrated the existence of a material error and injustice warranting the removal of enclosure (3) and therefore, the removal of enclosure (3) from the Petitioner's naval record shall be granted.

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XXX XX [REDACTED]

RECOMMENDATION

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

The Petitioner's naval record be corrected by removing enclosure (3) from the Petitioner's OMPF.

No further relief be granted.

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