



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

[REDACTED]
Docket No. 4226-19
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER [REDACTED]
[REDACTED] USN, XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149 w/attachments
(2) Member Data Summary
(3) Preliminary Inquiry Report of 15 Dec 16
(4) Petitioner's Voluntary Statement of 15 Dec 16
(5) USNA ltr of 16 May 17
(6) USNA ltr 5800 Ser 28/433 of 12 Jun 17
(7) Petitioner's Acknowledgement of Options of 14 Jun 17
(8) USNA action memo of 16 Aug 17
(9) ASN M&RA memo of 28 Aug 17
(10) Law Offices of [REDACTED] ltr of 8 Apr 19
(11) USNA ltr 5800 Ser 28/476 of 28 Jun 19
(12) Petitioner's Rebuttal Statement of 12 Sep 19

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 reinstate back to U.S. Naval Academy (USNA) or waive monetary recoupment for education benefits received.
2. The Board, reviewed Petitioner's allegations of error and injustice on 13 August 2020 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 (11), relevant portions of Petitioner's 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.

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- b. Petitioner reported to USNA on 1 July 2014. See enclosures (2).
- c. Preliminary Inquiry Report (PIR) was completed on 15 December 2016. Preliminary Investigation Officer recommended Petitioner be found in violation of underage drinking while on duty in direct and intentional disregard of oral or written orders. See enclosure (3).
- d. Petitioner provided a rebuttal to PIR on 15 December 2016 asserting accidentally sipping mother's beer at the Army-Navy Game. See enclosure (4).
- e. On 17 May 2017, Petitioner signed and acknowledged being issued Notification of Separation from the U.S. Naval Academy for Academic Deficiency dated 16 May 2017. See enclosure (5).
- f. Petitioner's request for reconsideration of disenrollment and request to participate in the Reevaluation and Reappointment Program was denied on 12 June 2017. Petitioner's semester Grade Point Average (GPA) was a 1.39 and had received a peer ranking placed at the bottom 10% of his company every semester he attended the USNA. See enclosures (6).
- g. On 14 June 2017, Petitioner signed Acknowledgment of Options Pertaining to my Separation from the Naval Academy and elected to provide monetary recoupment in lieu of active duty service. See enclosure (7).
- h. On 16 August 2017, Superintendent, USNA provided Assistant Secretary of the Navy (ASN), Manpower and Reserve Affairs (M&RA) ASN (M&RA) with the Academic Board's recommendation. See enclosure (8).
- i. On 28 August 2017, ASN M&RA disenrolled Petitioner due to academic failure and ordered recoupment of education benefits through monetary recoupment. See enclosure (9).
- j. On 8 April 2019, Petitioner's attorney contended injustices in the following arguments: disproportioned and unlawful punishment for minor misconduct, command tainting animus bias subsequently prejudicing disposition by the Board, set up for academic failure, academic Board failed to follow its own procedures, command told key witness to stand down. See enclosure (10).
- k. On 28 June 2019, USNA provided an unfavorable advisory opinion to enclosure (1). USNA reviewed the record and determined proper procedures were adhered to address and take action of all conduct and academic deficiencies in the case of Petitioner. See enclosure (11).
- l. On 12 September 2019, Petitioner's attorney provided a statement in response to the USNA advisory opinion. The statement indicates that Exhibits A to C provided further clarification based on the following documents: Petitioner's declaration, Commandant of Midshipmen Administrative Performance and Conduct System and 2010 Honor Concept of the Brigade of Midshipmen. See enclosure (12).

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CONCLUSION

Upon review and consideration of all the evidence of record, and withstanding the opinion expressed in enclosure (11), the Board concluded there was no evidence of an error or injustice. The Board found the U.S. Naval Academy conducted all actions concerning Petitioner's conduct and academics in accordance with naval regulations and policies. In regards to the assertions of unjust actions taken by the command, there is no evidence to support such claim. ASN (M&RA) disenrolled Petitioner due to not meeting academic requirements; Petitioner's conduct was not a factor. The Board felt that under these circumstances, relief is not warranted.

RECOMMENDATION

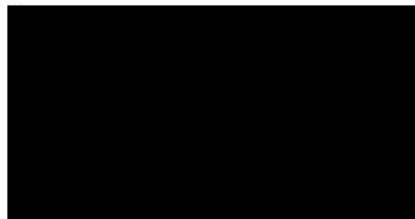
That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner's request be denied.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)), 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.

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

9/15/2020



Executive Director

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[REDACTED] USN, XXX-XX-[REDACTED]

ASSISTANT SECRETARY OF THE NAVY (M&RA) DECISION:

Reviewed and Approved Petitioner Request (Grant Relief)

JUN 29 2021

Reviewed and ~~Approved~~ Board Recommendation (Deny Relief)

[REDACTED]
Acting