



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

█
Docket No: 6837-21

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
█ USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1070.12K w/CH1
(c) DODI 1304.33

Encl: (1) DD Form 149 w/attachments
(2) NAVMC 118(11) Administrative Remarks of 11 Oct 19
(3) SJA, █ ltr 1900 9 of 26 Mar 20

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected by removing his 11 October 2019 Administrative Remark (page 11) entry and rebuttal statement.

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 8 March 2022 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.

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 11 October 2019, Petitioner was issued a page 11 entry counseling him for violating Uniform Code of Military Justice (UCMJ) Articles 92, 107, and 134 as evidenced by the 27 July 2019 Preliminary Inquiry. The entry noted that Petitioner knowingly violated Department of Defense Instruction (DODI) 1304.33 by engaging in an inappropriate relationship with a poolee, fraternization with a lance corporal (LCpl/E-3), falsifying an official document, and providing your spouse, the LCpl, with referral credit that was found to be false. The entry also notified Petitioner that he was being processed for Administrative Separation. On the same date,

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Petitioner was issued a page 11 entry notifying him that he is eligible for, but not recommended for promotion to due to his pending administrative separation. See enclosure (2).

c. On 21 February 2020, an administrative separation board was convened, the members found no basis for separation and recommended Petitioner's retention in the Marine Corps.

d. On 26 March 2020, the Staff Judge Advocate (SJA), Marine Corps [REDACTED] noted that the administrative separation proceedings were reviewed and found sufficient in law and in fact. See enclosure (3).

e. Petitioner contends that his administrative separation board convened and found no basis for the violations of Article 92, 107, and 134.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an error warranting partial corrective action. The Board noted that reference (b) provides not to "make entries on page 11 which concern administrative discharge or competency review proceedings if they do not, upon final review, result in discharge or reduction." The Board also noted that reference (c) prohibits activities between a recruit and a recruiter that apply from the first contact between a recruit and recruiter, through entry-level training, and for 6 months after the trainee completes entry-level training. Specifically, recruiters are not to develop, attempt to develop, or conduct a personal, intimate, or sexual relationship with a recruit or trainee. This includes, but is not limited to, dating, handholding, kissing, embracing, caressing, and engaging in sexual activities. Prohibited personal, intimate, or sexual relationships include those relationships conducted in person or via cards, letters, e-mails, telephone calls, instant messaging, video, photographs, social networking, or any other means of communication. In addition, before performing recruiter duties, recruiters signed a DD Form 2982, "Recruiter/Trainer Prohibited Activities Acknowledgment". The Board determined that since Petitioner was retained on active duty, enclosure (2) is in error. The Board also determined that Petitioner's marriage to the LCpl after recruit training violated DODI 1304.33 and the page 11 entry properly documented Petitioner's misconduct as determined by a preponderance of evidence. Moreover, although Petitioner was not separated, the Board determined that his retention on active duty does not impact the validity of the commanding officer's (CO's) determination that Petitioner committed misconduct that warranted a counseling entry. The Board reasoned that, Petitioner's CO was within his discretionary authority to issue the page 11 entry, and the entry creates a permanent record of a matter his CO deemed significant enough to document. Accordingly, the Board further determined that the page 11 entry should be redacted.

RECOMMENDATION

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

Petitioner's naval record be corrected by redacting enclosure (2), his 11 October 2019 Administrative Remarks (page 11) 6105 entry by removing the statement, "and I understand that

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I am being processed for the following judicial or adverse administrative action: Administrative Separation.”

Petitioner’s naval record be corrected by removing his 11 October 2019 promotion restriction page 11 entry from enclosure (2).

No other changes to Petitioner’s record.

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.

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 Regulations, 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.

4/1/2022

[REDACTED]
Deputy Director
[REDACTED]