



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

██████████
Docket No. 9214-23
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) JAGINST 5800.7G

Encl: (1) DD Form 149 w/attachments
(2) CMC ltr 1070 MMRP-13/PERB, 2 Sep 22
(3) ██████████ ltr 1000 CO, 20 Sep 22
(4) MMRP-10 Email, 3 Aug 23
(5) Administrative Remarks 6105 (Page 11) counseling entry, 23 Nov 21
(6) Promotion Restriction counseling entry, 23 Nov 21
(7) Administrative Remarks (Page 11) counseling entry, 28 Apr 22
(8) ██████████ ltr 1616 ██████████ 5 May 22

1. Pursuant to the provisions of reference (a), 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 enclosures (5) through (8).

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 14 November 2023, 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. On 2 September 2022, Headquarters, U.S. Marine Corps, Performance Evaluation Review Board removed Petitioner's DC fitness report for the reporting period 1 September 2021 to 18 November 2021. Enclosure (2).

b. On 20 September 2022, the Commanding Officer, ██████████ set aside Petitioner's NJP conducted on 18 November 2021 for violation of Articles 112a of the Uniform Code of Military Justice. Enclosure (3).

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c. On 3 August 2023, Headquarters, Marine Corps (MMRP) removed Petitioner's NAVMC 10132, Unit Punishment Book which documented the NJP. However, MMRP directed Petitioner to request removal of the Administrative Remarks 6105 (Page 11) counseling entry to this Board. Enclosure (4).

d. On 23 November 2021, Petitioner also received an Administrative Remarks 6105 (Page 11) counseling entry citing his recent NJP in accordance with reference (b). He also received a Promotion Restriction counseling entry stating, "I understand that I am eligible but not recommended for promotion due to recent NJP Violation of 112a for a period of 12 months IAW MCO P1400.32D." Petitioner acknowledged both counseling entries and did not elect to submit a written rebuttal. Enclosures (5) and (6).

e. On 28 April 2022, Petitioner's Commanding Officer issued him a counseling entry concerning his NJP of 18 November 2021, which explained that after further investigation by a preponderance of the evidence, he determined Petitioner did not wrongfully ingest a controlled substance. Therefore, his Commanding Officer rescinded his previous NJP. Petitioner acknowledged the counseling entry and elected to submit a written rebuttal, however on 5 May 2022, Petitioner's Sergeant Major wrote a letter indicating that although Petitioner elected to submit a rebuttal he never provided a response in the timeframe allotted. Enclosures (7) and (8).

f. Petitioner contends that based upon the Commanding Officer's decision to set aside his NJP and additional guidance provided on [3] August 2023 from MMRP that his counseling entries at enclosures (5) through (8) should be removed.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board found sufficient evidence of an error or injustice warranting relief. In this regard, the Board relied heavily upon the Commanding Officer's set aside letter as well as MMRPs removal of his DC FITREP. The Board determined that the counseling entries were given based upon an NJP that is no longer a part of Petitioner's naval record, and there is no reason for these entries to remain as part of Petitioner's naval record, therefore these entries should be removed.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (5) through (8).

That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record, and that no such entries or material be added to the record in the future. This includes, but is not limited to, all information systems or database entries that reference or discuss the expunged material.

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.

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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.

Sincerely,

11/30/2023

[REDACTED]