



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

█
Docket No. 645-24
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) USMC Marine Corps Recruit Depot Order 1100

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (6105) counseling entry, 27 Dec 21
(3) Administrative Remarks (6105) counseling entry, 11 Mar 22 and associated rebuttal, 11 Mar 22
(4) CO, █, 1900 Memo, subj: Relief for Cause ICO [Petitioner], 12 Jan 22
(5) CO, █, 1610 Memo, subj: Relief for Cause ICO [Petitioner], 14 Jan 22
(6) Fitness Report for the reporting period 1 Oct 21 to 11 Apr 22
(7) CO, █, 1610 Memo, subj: Non-Punitive Letter of Caution, 27 Dec 21
(8) Petitioner's Voluntary Statement, 27 Dec 21
(9) CO, █, 1610 Memo, subj: Suspension from Recruiting Duties, 27 Dec 21
(10) CO, █, 1610 Memo, subj: Acknowledgment of Submission of Relief for Cause Due to Violation of Article 92 ICO [Petitioner], 27 Dec 21
(11) Petitioner's Rebuttal Regarding Submission of Relief for Cause, 28 Dec 21
(12) Commanding General, █, 1100 RCTG Memo, subj: Relief for Cause ICO [Petitioner], 8 Mar 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 removal of two Administrative Remarks (6105) counseling entries dated 27 December 2021 and 11 March 2022, at enclosures (2) and (3); the two documents "recording the relief for cause" at enclosures (4) and (5); and the adverse fitness report for the reporting period 1 October 2021 to 11 April 2022 at enclosure (6).

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 29 February 2024, and pursuant to its regulations, determined 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.

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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 27 December 2021, Petitioner quit his duties as a production recruiter through his communication with the Staff Noncommissioned Officer in Charge and a written statement to the Commanding Officer (CO). In his handwritten statement, Petitioner stated that his "mental health, physical health, and family life are degrading" and he could not continue to be a canvassing recruiter because he could not meet the demands of the job. In closing, Petitioner stated "I also believe at this point I should consult with mental health experts to get help I may need." See enclosures (7) and (8).

b. The record indicates CO, [REDACTED] issued Petitioner a direct order to carry out his duties and responsibilities as an 8411 Production Recruiter. After Petitioner failed to obey the order, the CO issued the enclosure (2), counseling. Petitioner elected not to make a statement in rebuttal. Additionally, the CO issued Petitioner a nonpunitive letter of caution counseling him that "as Marines, we cannot quit our official duties." In response to the circumstances, the CO suspended Petitioner from all recruiting activities. Lastly, CO, [REDACTED], informed Petitioner that due to Petitioner's "most recent 6105, violation of [A]rticle 92" he was being processed for Relief for Cause (RFC). In rebuttal to the RFC notification, Petitioner submitted a request to be considered for a Good of the Service (GOS) relief as opposed to a RFC. Petitioner further indicated his intention to "seek consultations for [his] mental health" and requested those findings "be considered in the decision making process." See enclosures (2), (7), and (9) through (11).

c. By memorandum of 12 January 2022, CO, [REDACTED], recommended Petitioner's RFC due to his most recent 6105 after his refusal to obey a direct order to carry out his duties and responsibilities as a Production Recruiter. See enclosure (4).

d. By memorandum of 14 January 2022, CO, [REDACTED], concurred with the recommendation that Petitioner be relieved for cause. The CO stated that "[d]ue to his lapse of judgment that is unbecoming of a staff non-commissioned officer, I have lost trust and confidence in [Petitioner] as a canvassing recruiter..." See enclosure (5).

e. By memorandum of 8 March 2022, Commanding General, [REDACTED], approved the RFC and voided Petitioner's additional military occupational specialty of 8411. See enclosure (12)¹.

f. On 11 March 2022, Petitioner was issued enclosure (3), a counseling noting his RFC due to disobeying a lawful order. Petitioner elected to submit a rebuttal statement explaining that his decision to discontinue serving on recruiting duty was a "preemptive action" because he was "slipping in to a bad mental state of mind" which created a "destructive environment" for

¹ This document was submitted by Petitioner in enclosure (1) and is not contained within his OMPF.

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himself and his family. “This action was an effort to stay ‘Left of Bang’ to avoid life altering issues for [his] family if [he] was no longer here.” See enclosure (3).

g. Petitioner was issued an adverse transfer fitness report for the reporting period 1 October 2021 to 11 April 2022. The fitness report repeatedly annotates Petitioner refused a direct order from the CO, recommends he not be promoted or retained, and documents his RFC after “officially quitting his duties as a production recruiter, and disobeying a follow-on direct order.” See enclosure (6).

h. Petitioner contends the proper procedures for a RFC were not followed because he was not afforded the opportunity to seek mental health treatment or counseling prior to being notified of his RFC. Further, he contends his situation warranted relief for the GOS which is made without prejudice to the recruiter, does not reflect unfavorably on one’s record, and is generally based on matters beyond the control of the recruiter. Petitioner further contends personal or family problems are a noted reason for relief. See enclosure (1).

i. Reference (b) states relief for the GOS is generally based on matters beyond the control of the recruiter. Justification may include personal or family problems. In contrast, reference (b) states RFCs are made with prejudice to the recruiter and will reflect unfavorably. Justification may include 1) malpractice, 2) misconduct, 3) unsatisfactory productivity not otherwise justified by a GOS, and 4) loss of trust and confidence.

CONCLUSION

Upon review and consideration of all the evidence, the Board determined Petitioner’s request warrants relief. The Board careful consideration of the complete record and relying on reference (b), the Board determined it was unjust to relieve Petitioner for cause. The Board specifically noted the record indicates Petitioner clearly indicated he was experiencing mental health issues and needed to consult mental health experts. Reference (b) clearly states “personal or family problems” as a justification for a GOS relief. However, rather than provide Petitioner with assistance, the immediate response, as evidenced by enclosures (7) through (11), was to give Petitioner a direct order to “carry out [his] duties and responsibilities” and when Petitioner did not immediately obey, to relieve him for cause due to misconduct. In his rebuttal at enclosure (11), Petitioner respectfully requested to be considered for a GOS relief as opposed to a RFC due to his mental health. Rather than pause in its pursuit of a RFC, Petitioner’s chain of command pushed forward with the RFC. The Board determined the record, as created by the chain of command, clearly indicates Petitioner was experiencing personal and family problems and highlights the gross decision to turn Petitioner’s cry for help into misconduct. The Board concluded the decision to RFC Petitioner vice relieve him for the GOS was unjust.

Based on its findings, the Board determined all documents related to the RFC should be removed from Petitioner’s record, as well as the adverse fitness report which was clearly rooted in the unjust RFC decision.

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RECOMMENDATION

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

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

- (a) 6105 counseling entries and rebuttal at enclosures (2) and (3).
- (b) RFC documents at enclosures (4) and (5), as well as any other documentation which records Petitioner's RFC; and
- (c) The adverse fitness report at enclosure (6).

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.

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.

3/27/2024

[REDACTED]

Deputy Director

Signed by: [REDACTED]