



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

█  
Docket No. 2297-24  
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) Title 10 U.S.C. § 1552  
(b) MCO 1754.11A  
(c) MCO 1900.16 (MARCORSEPMAN)  
(d) Title 18, United States Code, Section 922(g)(3)

Encl: (1) DD Form 149 w/enclosures  
(2) IDC Chairperson (MCA1065095b), █ ltr 1700 MCCSM&FP of 20 Jan 21  
(3) IDC Chairperson (MCA1065095a), █ ltr 1700 MCCSM&FP of 20 Jan 21  
(4) IDC Chairperson (MCA1065091b), █ ltr 1700 MCCSM&FP of 20 Jan 21  
(5) IDC Chairperson (MCA1065091a), █ ltr 1700 MCCSM&FP of 20 Jan 21  
(6) NAVMC 118(11) Administrative Remarks counseling entry of 25 Jul 22  
(7) Petitioner rebuttal [Undated]  
(8) █ ltr of 2 Oct 22  
(9) Senior Member, ADSEP Board Findings & Recommendations of 25 Jan 23  
(10) █ █ Ltr 1000 █ of 28 Sep 23

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 (6) and (7), the 25 July 2022 Administrative Remarks (6105) Page 11 counseling entry and associated rebuttal statement.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 19 March 2024, 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 the 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, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. On 20 January 2021, the Incident Determination Committee (IDC) Chairperson determined the incident concerning allegations of spouse emotional and physical maltreatment by Petitioner's spouse against the Petitioner "met criteria" in accordance with reference (b). The IDC Chairperson also determined the incidence concerning allegations of spouse emotional and

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physical maltreatment by Petitioner against his spouse “did not meet criteria.” See Enclosures (2) through (5).

c. On 25 July 2022, pursuant to reference (c), Petitioner was issued counseling entry notifying him that because a restraining order was issued against him on 10 July 2020 for allegations of domestic violence, in accordance with reference (d), it was unlawful to possess, ship, transport, or receive a firearm or ammunition for personal use for 12 months from the later of the counseling on the adjudication of the offense by administrative or judicial means. Petitioner signed the counseling entry and, in his rebuttal statement, he indicated that the counseling entry was based upon a baseless domestic violence restraining order and claims with no evidence from over two years ago in 2020. He denied the allegations stating they were false and there was significant evidence demonstrating the misrepresentations, false motivations, and maliciousness of his ex-wife. See Enclosures (6) and (7).

d. On 2 October 2022, Petitioner’s former Commanding Officer (CO) wrote an advocacy letter on behalf of the Petitioner in which she indicated that Petitioner had gone through a messy divorce and, in one instance, his ex-wife ([REDACTED]) had been reprimanded for a number of incidents. The CO also stated that, due to the nature of the accusations (e.g. the IDC cases), the command was required to take certain steps that prevented the Petitioner from moving on. See Enclosure (8).

e. On 25 January 2023, Petitioner’s Administrative Discharge (ADSEP) Board unanimously found that the preponderance of the evidence did not prove any of the acts or omissions alleged and recommended Petitioner’s retention in the Marine Corps. See Enclosure (9).

f. On 28 September 2023, the Senior Member of the ADSEP Board (also a member of Petitioner’s former command) recommended in an advocacy letter that no documentation associated with the alleged offense or the ADSEP process be placed in Petitioner’s official record. See Enclosure (10).

g. Petitioner contends that the counseling entry is based on proven false allegations that were reviewed by the Family Advocacy Program and found not to be credible. In fact, his ex-wife was found to be the aggressor on all counts. Additionally, Petitioner asserts his ex-wife continued her abuse by using her Marine Corps Total Force System access to access Petitioner’s personally identifiable information (PII) in direct violation of the Privacy Act of 1974. Finally, he contends that due to the allegations, Petitioner was wrongfully processed for administrative separation, which led the counseling entry issued two years later following her initial allegations.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting relief.

In this regard, the Board noted that it was the CO’s discretionary authority to issue Petitioner the counseling entry at enclosure (6). However, the Board carefully considered Petitioner’s contentions and felt it was unjust for the counseling entry to remain in Petitioner’s record based on the totality of the evidence. Moreover, the Board determined that the counseling entry and

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associated rebuttal statement is prejudicial and could be perceived negatively by future selection boards. Thus, the Board determined the counseling entry to be unjust and that Petitioner provided sufficient evidence to determine the counseling entry and associated rebuttal shall be removed from Petitioner's official record.

#### RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (6) and (7).

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.

4/1/2024

[REDACTED]  
Executive Director

Signed by: [REDACTED]