

DEPARTMENT OF THE NAVY

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

> Docket No. 2675-24 Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149 w/attachments

- (2) NAVMC 118(11) Administrative Remarks 6105 (Page 11), 27 Mar 23
- (3) BCNR ltr Docket No. 9146-23, 30 Nov 23
- (4) Itr 1400 CO, undated
- 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 the 7 February 2023¹ Administrative Remarks 6105 (Page 11) entry.
- 2. The Board, consisting of reviewed Petitioner's allegations of error and injustice on 23 April 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 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 regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds the following:
- a. On 27 March 2023, Petitioner was issued a Page 11 entry counseling him for a violating Article 134, Uniform Code of Military Justice (UCMJ) (Indecent Act with Another) "...wrongfully commit an indecent act with by knowingly being with said named individual who was under liberty restriction and being arrested." Petitioner acknowledged the Page 11 entry and elected not to submit a statement. Enclosure (2).
- b. In correspondence, attached as enclosure (3), the Board found Petitioner's evidence insufficient of an error or injustice to remove enclosure (2). The Board, however, noted that the

¹ The 6105 counseling entry appears to be dated 27 March 2023 vice 7 February 2023. Enclosure (3) and (4) indicates the counseling entry as 27 March 2023.

counseling entry contained an administrative error, in that it identified Petitioner with the incorrect EDIPI, and directed the administrative correction of his record.

- c. In correspondence, the officer that issued the counseling entry provided a request in support of removing the counseling entry. The officer indicated that there were inaccuracies present in the entry which are detrimental to the accuracy and fairness of Petitioner's record, and the counseling entry includes an incorrect violation of Article 134, UCMJ. Enclosure (4).
- d. In his petition, Petitioner contends the article charged was not the correct article. He was charged for "indecent acts" when no indecent act was committed. Petitioner claimed his sole objective is to reenlist because the counseling is impeding his ability to do so. Enclosure (1).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting corrective action. In this regard, the Board noted the correspondence from the officer that issued the Page 11 entry and found the request persuasive. Based on the officer's request, the Board determined found sufficient justification warranting removal of the counseling entry.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2).

- 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.

