



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

██████████
Docket No. 3660-24
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 1900.16 (MARCORSEPMAN)
(c) MCO 6100.13
(d) MCO 1326.6

Encl: (1) DD Form 149 w/enclosures
(2) NAVMC 118(11) Administrative Remarks (page 11) and Promotion Restriction counseling entries of 17 May 23
(3) ██████████, Emergency Medicine, Physical Exam notes of 17 May 23
(4) ██████████ MRI, Exam Results of 31 Jul 23
(5) CO, ██████████ltr 5800 CO of 26 Feb 24

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 the 17 May 2023 Administrative Remarks (page 11) counseling entries.

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 16 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 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 17 May 2023, Petitioner was issued an administrative remarks (6105) page 11 entry counseling him for a failed recertification Physical Fitness Test (PFT) for assignment as a Drill Instructor. The counseling entry was signed by the Executive Officer (XO). Petitioner also received a counseling which states that he was not eligible for promotion due to formal assignment to the Remedial Conditioning Program. Petitioner signed both counseling entries and indicated that he did not intend to submit a rebuttal statement. The same day, Petitioner was seen by medical personnel concerning sudden onset low back pain while executing the PFT. The Medical provider referred Petitioner to physical therapy and ordered a Magnetic Resonance Imaging (MRI). See Enclosures (2) and (3).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC

c. On 31 July 2023, an MRI confirmed Petitioner had degenerative disc with annual high intensity zone at intervertebral discs located L5-S1. See Enclosure (4).

d. On 26 February 2024, the Commanding Officer (CO), [REDACTED] recommended that the counseling entry be removed from Petitioner's official record. The CO justified his request by explaining Petitioner was unable to complete the run portion of the PFT due to an injury while conducting the run. He also states the counseling entry was given to the Marine without allowing Petitioner adequate time to provide medical documentation or be seen by competent medical personnel. Furthermore, the CO also determined the counseling entry was erroneous because it was signed by his XO. See Enclosure (5).

e. Petitioner contends that he received the counseling entry for failing a PFT due to an injury that was confirmed by medical authority; therefore, he should not have received the counseling entry.

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 the CO properly issued Petitioner enclosure (2) based upon a preponderance of the evidence that Petitioner failed the PFT in accordance with references (b) through (d). However, the Board gave substantial consideration to the medical documentation provided by the Petitioner, in conjunction with the CO's favorable recommendation, and determined the counseling 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 (2).

Any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record, and 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 Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] / [REDACTED] USMC

corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

5/9/2024

