



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

█
Docket No. 4673-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
█ USMC

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149 w/attachments
(2) NAVMC 118(11) Administrative Remarks 6105 (Page 11), 2 Feb 24
(3) █ ltr 1000 █, 5 Feb 24
(4) █ Police Department ltr, 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 enclosures (2) and (3).

2. The Board, consisting of █, and █, reviewed Petitioner's allegations of error and injustice on 30 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 2 February 2024, Petitioner was issued a page 11 entry for Disorderly conduct and drunkenness. Specifically, on 19 January 2024, Petitioner and his Staff Non-Commissioned Officer (SNCO) went to a local establishment to consume alcohol. Later that evening, he and the SNCO were involved in a vehicle accident resulting in damage to another vehicle and other property. Following the accident, the SNCO fled the scene while Petitioner remained. Local police arrived and during questioning, he became "irate and refusing to cooperate" with the police officers conducting the investigation. Later the local police department arrested the SNCO on suspicion of Driving Under the Influence. While in custody, the SNCO submitted to a blood alcohol content BAC test that returned at a level of .23 percent, greatly exceeding the legal limit of .08%. While not the driver of the vehicle, Petitioner allowed the SNCO to drive his vehicle after excessive consumption of alcohol. When questioned about the incident, he lied stating "you didn't know who was driving." Petitioner acknowledged the entry and elected to submit a statement. Enclosure (2).

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

b. In a rebuttal statement, dated 5 February 2024, Petitioner stated they were not able to operate a vehicle so he texted and called his brother to pick them up. He went into the passenger seat while the SNCO was in the back seat. He woke up to the impact of the vehicle crashing into a vehicle and trash bin. He exited the vehicle dazed and had no idea who was in the vehicle or who was driving. The police arrived and began to question him and the SNCO. Petitioner asserted that he is morally convinced he used his better judgement to make responsible decisions to ensure they arrived home without jeopardizing their careers, lives, or the lives of others. Enclosure (3).

c. In correspondence attached as enclosure (4), a [REDACTED] of the [REDACTED] Police Department stated, he arrived after the accident and was directed to Petitioner; the registered owner of the car. Time was needed to establish who the driver was and, once they established Petitioner was not the driver, he was released at the scene. Once he explained the reason for Petitioner's detention, Petitioner apologized for being upset.

d. In his petition, Petitioner contends the circumstances were not consistent with the police report provided and the language in the 6105 was mainly focused on another Marine. There were unfounded accusation made; specifically, that he lied about a detail of the events. Petitioner also contends, the counseling failed to prove beyond any doubt all the facts surrounding the incident. 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 police officer and were persuaded about the accuracy of Petitioner's statement. The Board determined the counseling entry is overly focused on the misconduct of the SNCO. As a result, the Board concluded the counseling entry is unjustly prejudicial to Petitioner and should be removed along with the associated rebuttal statement.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (2) and (3).

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 Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective

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

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

5/17/2024

