



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

██████████
Docket No. 5197-24
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)

Encl: (1) DD Form 149 w/enclosures
(2) NAVMC 118(11) Administrative Remarks 6105 counseling entry, May 22
(3) Associated rebuttal statement, 9 May [21]
(4) ██████████ Laboratory Results, 18 Apr 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 that her naval record be corrected by removing enclosure (2) and (3).

2. The Board, consisting of ██████████, ██████████, ██████████ reviewed Petitioner's allegations of error and injustice on 21 May 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 18 April 2022, while a student at the Staff Noncommissioned Officer Academy (SNCOA) Career Course, Petitioner ran a physical fitness test (PFT) and failed to achieve the minimum passing score. As a result, pursuant to reference (b), Petitioner was issued a counseling for failure to achieve the minimum passing score for her PFT while attending the SNCOA Career Course. Petitioner signed the counseling entry, and, in her statement, she indicated that she received the counseling entry for PFT failure while she was COVID positive. She explained that in the days leading up to the PFT failure she was feeling very ill, and her instructors knew that she was ill since she told them and was coughing non-stop. She also added that during the PFT she experienced chills and fever at the time, she was coughing, and that it was very hard to breath during the run. Later, the same day, Petitioner went to the Base Medical Clinic (BMC) and tested positive for COVID. See Enclosures (2) through (4).

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

c. Petitioner contends that she was wrongfully issued a counseling entry for failing a PFT while COVID positive. She also asserts that she was tested a week prior to the PFT due to feeling ill and the results came back negative. She expressed her concerns but since the results were negative, she was required to run the PFT as part of the graduation requirements for the SNCOA. She also asserts that due to the nature of the symptoms, it made it very difficult to breathe; therefore, she did not meet the passing requirements.

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 pursuant to reference (b), the counseling entry was issued in accordance with policy and that it was the commanding officer's discretionary authority to issue Petitioner the counseling entry. However, the Board carefully considered Petitioner's contentions and felt it was unjust for the counseling entry to remain in Petitioner's record based upon the positive COVID test. 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

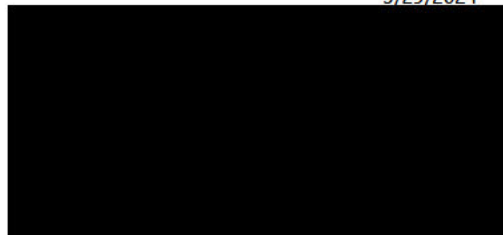
In view of the above, the Board directs the following corrective action:

Petitioner's naval record be corrected by removing enclosures (2)¹ and (3).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.

5/29/2024



¹ The 6105 counseling entry is dated as "202205???" (May 2022), however the actual "day" is not legible.

² The associated rebuttal is dated as 9 May [21], however the year would have been "2022" based on the 6105 counseling entry.