



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

[REDACTED]
Docket No. 5573-24
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) Uniform Code of Military Justice (UCMJ)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) counseling entry of 22 October 20
(3) Petitioner's Rebuttal to the Page 11 counseling entry of 22 October 20
(4) Administrative Remarks (Page 11) counseling entry of 2 December 20
(5) Petitioner's Rebuttal to the Page 11 counseling entry of 2 December 20
(6) Administrative Remarks (Page 11) entry of 30 December 20
(7) Administrative Remarks (Page 11) entry of 26 March 21
(8) Petitioner's Rebuttal to the Page 11 entry of 26 March 21

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 removal of "all four NAMVC 118(11)" from her military record.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 27 June 2024 and, pursuant to its regulations, determined 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. 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. Petitioner was issued enclosure (2), an Administrative Remarks (Page 11) counseling entry, on 22 October 2020, counseling her regarding violations of Article 92 (Dereliction of Duty) and Article 134 (Conduct Prejudicial to Good Order and Discipline and of a Nature to Bring Discredit Upon the Armed Forces) of reference (b). Specifically, the Page 11 entry documented Petitioner began experiencing COVID-19 symptoms on 3 October 2020 but, rather than immediately self-isolating prior to her scheduled test on 4 October 2020, Petitioner spent the night in another Marine's off base residence and had lunch the following day at a public restaurant with a second Marine who later escorted her to be tested. Further, the counseling

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entry noted Petitioner, after receiving positive test results, finally notified her chain of command but also went shopping in a public place. Lastly, the Page 11 ordered Petitioner into a Restriction of Movement status to prevent the potential spread, specifically restricting her to assigned temporary quarters at the [REDACTED] with orders to not have visitors or leave for subsistence or personal items without permission from the chain of command. In response to the Page 11, Petitioner submitted a rebuttal response taking “full responsibility and accountability” for her actions. See enclosures (2) and (3).

c. On 2 December 2020, Petitioner was issued a second Page 11 counseling entry after breaking COVID-19 quarantine measures on or about the 11th of October. Once again, Petitioner submitted a rebuttal response explaining the circumstances but also taking “full responsibility and accountability” for her actions. See enclosures (4) and (5).

d. Petitioner was issued a Page 11 entry on 30 December 2020 acknowledging she was selected but would not be promoted to the rank of Corporal for the month of January 2021 because of recent legal action. Petitioner chose not to submit a written rebuttal. See enclosure (6).

e. On 26 March 2021, Petitioner received a Page 11 entry noting she had been selected but would not be promoted to the rank of Corporal for the month of April 2021 “due to displaying lack of maturity expected of a future Noncommissioned Officer.” Petitioner provided a lengthy rebuttal response discounting the contended “lack of maturity” and noting her “steady path of productivity and redemption” and the monumental improvement in her judgment and leadership. See enclosures (7) and (8).

f. Petitioner contends the COVID-19 regulations were unclear and she did not receive the “necessary support” from her chain of command in her newly assigned Active Reserve duties. Further, she contends that when she requested to submit a rebuttal statement, she was “directed by [her] superiors to accept full responsibility and accountability for [her] actions.” Petitioner also contends the counseling entries of 22 October 2020 and 2 December 2020 were within the same timeframe and stated the same guidance. In support of the contention, she submitted an email exchange¹ between the Chief of Staff (COS) and Master Gunnery Sergeant (MGySgt) wherein the COS concurred that “with a fresh set of eyes” it was “clear that the ‘events’ should have been consolidated on [one] 6105, not spread out over [two] 6105s over a month apart.” Additionally, Petitioner contends the Page 11 issued 30 December 2020 was in error because it cited “recent legal action” when there was none. Lastly, she contends these “events” have resulted in two promotion delays and hindered her progress towards attaining the rank of Sergeant prior to her end of active service. See enclosure (1).

CONCLUSION

Upon review and consideration of all the evidence, the Board determined Petitioner’s request warrants partial relief. Relying on the email exchange between the COS and MGySgt, the Board determined the December 2020 counseling entry at enclosure (4) duplicated the incidents

¹ Attachment H of enclosure (1)

addressed by the October counseling entry and concluded the entry should be removed in the interests of justice.

The Board, however, determined the 22 October 2020 counseling entry creates a permanent record of matters Petitioner's Commanding Officer (CO) deemed significant enough to document. The Board noted the entry provided written notification concerning her deficiencies, specific recommendations for corrective action, and an explanation of the consequences of failure to successfully take the recommended corrective action. The Board also noted Petitioner availed herself of the opportunity to provide a rebuttal statement and that statement is properly included with the counseling entry in her official military personnel file. Further, the Board noted the entry was appropriately issued by a CO as evidenced by his signature on the entry. The Board carefully considered Petitioner's contentions but determined the CO has wide discretion regarding the subject matter of a counseling entry, and it is within his discretionary authority to determine if/when a counseling entry is warranted.

The Board also determined the Page 11 entries of 30 December 2020 and 26 March 2021 were appropriately issued, signed by the CO, and allowed Petitioner to submit a written rebuttal. The Board noted Petitioner did not submit supporting evidence but only her comments on the DD Form 149.

Based on the available evidence, the Board concluded there is insufficient evidence of material error or injustice warranting the removal of the 22 October 2020 counseling entry or the contested Page 11 entries of 30 December 2020 and 26 March 2021.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (4), the 2 December 2020 counseling entry, and its associated rebuttal at enclosure (5).

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 Regulation, 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.

7/11/2024

