



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

██████████
Docket No. 8240-24
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) Manual for Courts-Martial (2019 Ed.), Part V

Encl: (1) DD Form 149 w/attachments
(2) NAVMC 10132 Unit Punishment Book entry of 27 Jul 23
(3) NAVMC 118(11) Administrative Remarks of 28 Jul 23
(4) ██████████ ltr 5800 S-1 of 6 May 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 27 July 2023 Unit Punishment Book (UPB) documenting his non-judicial punishment (NJP) from his Official Military Personnel File (OMPF).

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 20 August 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. 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 27 July 2023, Petitioner received NJP for violating the Uniform Code of Military Justice (UCMJ) Article 113 (drunken or reckless operation of a motor vehicle). Specifically, on or about 17 July 2023, Petitioner physically controlled a personal owned vehicle while the alcohol concentration on his breath equaled or exceeded the applicable limit as shown by chemical analysis. As punishment, Petitioner was reduced in grade to lance corporal/E-3, assigned 45 days restriction and extra punitive duties, and received forfeiture of \$1201.00 pay per month for two months (total forfeiture of \$2402.00), which was suspended for a period of six months. Petitioner acknowledged his Article 31, UCMJ Rights, accepted NJP, certified that he was given the opportunity to consult with a military lawyer, acknowledged his right to appeal,

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and elected not to appeal the commanding officer's (CO's) finding of guilt at NJP. See enclosure (2).

c. On 28 July 2023, Petitioner was issued an Administrative Remarks (Page 11) 6105 counseling entry documenting his deficiencies for violation of Article 113, UCMJ. On the same date, Petitioner was notified that he was eligible, but not recommend for promotion to corporal for a period of 12 months due to receiving NJP. Petitioner signed the entries and elected not to submit a statement. See enclosure (3).

d. On 6 May 2024, pursuant to reference (b), the CO set aside Petitioner's reduction in grade imposed on 27 July 2023. The CO requested all records be purged of any notations of the reduction in grade and its residual effects on the Petitioner. See enclosure (4).

e. Petitioner contends that his CO "waived and set aside" his NJP but the UPB remains in his official record, which is "restricting [him] from re-enlisting...and being able to stay in [his military occupational specialty]." He further asserts that his promotion to corporal has since been reinstated with his original date of rank of 1 August 2022.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board found sufficient evidence of an error or injustice warranting partial relief.

In this regard, the Board noted that pursuant to reference (b), the commander who imposes NJP, or a successor in command, has authority to set aside the punishment or any part or amount thereof, whether executed or unexecuted and any property, privileges, or rights affected by the portion of the punishment set aside should be restored. The Board noted, however, only a portion of Petitioner's punishment—his reduction in grade to lance corporal—was set aside. The Board determined there was insufficient evidence that the CO set aside the remaining punishment of extra duties, restriction, or forfeiture of pay. The Board thus concluded the UPB should be redacted to remove any indication that the Petitioner received a reduction in grade, and that the redacted UPB shall remain in his OMPF.

RECOMMENDATION

In view of the above, the Board recommends the following corrective actions:

Petitioner's naval record be corrected by redacting block 6 of enclosure (2), the Unit Punishment Book by redacting "Red to LCpl. E-3"

That no further relief be granted.

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.

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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.

9/24/2024

