



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

Docket No. 10345-24
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] USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1900.16 w/CH 2
(c) MCO P1400.32D CH 2

Encl: (1) DD Form 149 w/attachments
(2) NAVMC 118(11) Administrative Remarks (6105), 29 Mar 23
(3) [REDACTED] ltr 1000 ADMIN, subj: Statement of Rebuttal, undated
(4) [REDACTED] [REDACTED] ltr no signature and 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 to remove enclosures (2) and (3). Petitioner also request remedial consideration for promotion to E-6.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 26 November 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 that, before applying to this Board, Petitioner did not exhaust all administrative remedies available under existing law and regulations within the Department of the Navy regarding his request for remedial promotion consideration. The Board made the following findings:

a. On 29 March 2023, Petitioner was issued a 6105 counseling entry for disobeying a lawful command from [REDACTED] his superior commissioned officer, not to contact members of the personnel section and to comply with the directions as prescribed in the military protective order (MPO). Petitioner acknowledged the entry and elected to submit a statement. Enclosure (2).

b. Enclosure (3), Petitioner argued that his presence at [REDACTED] was not in violation of the MPO. He was informed the Marines on the MPO would stay away from him while he stayed

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away from them, but time and time again the same Marines listed on MPO reached out to him for help with work.

c. Enclosure (4), [REDACTED] provided that Petitioner was moved into his office for "accountability and observation." He was directed to not speak to Petitioner about his situation or to ask any questions about his transfer. The only additional instructions he gained was that Petitioner was under investigation and was not to enter the administrative sections unless it was in an official work capacity. The [REDACTED] noted that Petitioner was repeatedly required to attend ceremonial events that brought him into direct contact with the person whom he was supposed to have no contact. The [REDACTED] opined that he could easily see why Petitioner was reprimanded for failing to follow the MPO and it appeared to only be enforced when convenient. Petitioner's left and right lateral limits appeared to be extraordinarily blurred by the commands, Petitioner had multiple chains of commands, and he was unable to provide Petitioner with coherent guidance. The [REDACTED] further opined that mixed messaging on the MPOs requirements, multiple chain of commands, and failure to give proper guidance left Petitioner in an impossible situation that was handled to the best of his ability.

d. In his application, Petitioner provides that he was issued a MPO directing him to distance himself from the Marines under his direct supervision. Despite adhering to the MPO's directive, he continued to maintain necessary communication with the Marines. Petitioner contends that he was not explicitly instructed not to enter the area, and when he received the counseling, the Chief Warrant Officer and MSgt informed him that despite the MPO, he was to continue performing his duties as the Personnel Chief and work would continue to flow through him. In his role as the Personnel Chief, he continued necessary communication with the Marines through email, phone calls, Microsoft Teams, and in-person meetings, adhering to the professional obligations of his role. Petitioner claims that throughout the investigation, he made every effort to adhere to the MPO while fulfilling his professional responsibilities. The investigation that followed ultimately concluded with no derogatory findings, indicating that the punitive action may have been unwarranted. Petitioner asserts that this outcome underscores the need for reconsideration of enclosure (2) and its lasting effects. Enclosure (1).

CONCLUSION

Upon careful review and consideration of all the evidence of record, the Board found sufficient evidence of a material error and determined that Petitioner's request warrants partial corrective action. The Board noted that Petitioner was issued a 6105 counseling entry for violating the MPO. The Board also noted that Petitioner acknowledged the entry, he submitted a statement, and his commanding officer signed the entry. The Board determined that the counseling entry was written and issued in accordance with paragraph 6105 of reference (b). The Board also carefully considered enclosure (4) and were persuaded that confusion regarding the parameters of the MPO most likely contributed to the basis for the counseling entry. In this regard, according to the counseling entry, Petitioner was instructed not to contact members of the personnel section, the Board however determined there is sufficient evidence that Petitioner was directed to perform duties requiring him to be in contact with members of the personnel section. The Board found no evidence of the purported command investigation, or any adverse material

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related to an investigation in Petitioner's official record. Based on the confusion regarding Petitioner's parameters coupled with the lack of adverse material, the Board determined that in the interest of justice, enclosures (2) and (3) should be removed.

Concerning Petitioner's request for remedial promotion consideration, the Board determined that Petitioner has not exhausted his administrative remedies. In accordance with reference (c), prior to this Board taking any action, Petitioner must submit his request to the Marine Corps Promotion Branch, Enlisted Promotions as they are best situated to determine if remedial consideration is warranted. Thus, the Board did not consider Petitioner's request for remedial promotion consideration.

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.

No further corrections to Petitioner's naval record will be taken.

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.

12/11/2024

