



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

█
Docket No. 10611-24
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 (2023 ed.)

Encl: (1) DD Form 149 w/attachments
(2) NAVMC 10132 Unit Punishment Book/Non-Judicial Punishment, 6 Jan 23
(3) NAVMC 118(11) Administrative Remarks 6105 (Page 11), 6 Jan 23
(4) NAVMC 118(11) Administrative Remarks (Page 11), Promotion Restriction, 6 Jan 23
(5) Senior Member, Itr 1910 Legal, Administrative Discharge Board Report, 19 Mar 24
(6) CO, HQBN Itr 5000-1 CO, Setting Aside of Non-Judicial Punishment, 17 Sep 24

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 restore all rights, privileges, and property affected by the awarded punishment at non-judicial punishment (NJP). Petitioner's request implies the removal of the 6 January 2023 Administrative Remarks (Page 11) entries.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 5 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 exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. On 6 January 2023, Petitioner received NJP for violating Uniform Code of Military Justice (UCMJ) Article 128 for physically striking another Marine in the face causing bodily harm. Petitioner was awarded restriction, reduction in rank, and forfeitures pay. Enclosure (2).

b. On 6 January 2023, Petitioner was issued a 6105 Page 11 entry counseling him for committing assault to another Marine by physically striking █ in the face

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

causing bodily harm. Petitioner acknowledged the entry and elected not to submit a statement. Enclosure (3).

c. On 6 January 2023, Petitioner was issued a Page 11 entry restricting him from promotion for six months due to his recent NJP. Petitioner acknowledged the entry and elected not to submit a statement. Enclosure (4).

d. Based on his misconduct, Petitioner was processed for administrative separation and he elected to have his case heard by an administrative separation board (ASB). On 19 March 2024, Petitioner's ASB found that the preponderance of evidence did not prove any of the acts or omissions alleged and recommended his retention. Enclosure (5).

e. In correspondence dated 17 September 2024, the Commanding Officer, [REDACTED] set aside Petitioner's NJP. As justification, he noted that, during the course of the ASB, the ASB members viewed a video cited by the [REDACTED] report as evidence of Petitioner's misconduct and determined Petitioner was clearly not guilty of the charges that led to his NJP. Enclosure (6).

f. In his application, Petitioner contends the [REDACTED] Report substantiated a violation of Article 128 (Assault Consummated by Battery) based on video footage. He was awarded NJP and processed for administrative separation. The ASB viewed the video, as did the Commanding Officer at a later date, and he was clearly not guilty of any violations. 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 Petitioner's Commanding Officer setting aside the NJP and determined Petitioner's NJP was set aside in compliance with reference (b). The Board also noted that enclosure (2) was previously removed and Petitioner's former rank and forfeitures were restored. Therefore, the Board only considered whether Petitioner's counseling entry documenting his NJP and the Page 11 restricting promotion should be removed from his record. Based upon the setting aside of Petitioner's NJP and the finding that he was not guilty based on video evidence, the Board determined that all documents related to the NJP should be removed.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (3) and (4).

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.

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

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.

11/29/2024

