



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

Docket No. 12180-24
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) 10 U.S.C. § 1552
(b) Uniform Code of Military Justice

Encl: (1) DD Form 149 w/enclosures
(2) NAVMC 10132, Unit Punishment Book of 31 July 2023
(3) Administrative Remarks (Page 11) counseling entry of 31 July 2023
(4) Administrative Remarks (Page 11) entry of 31 July 2023
(5) NAVMC 10835, USMC Fitness Report for the reporting period 3 January 2023 to 31 July 2023
(6) CO, [REDACTED] CO
Memo, subj: Setting Side of Nonjudicial Punishment ICO [Petitioner], [REDACTED]

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 the Administrative Remarks (Page 11) 6105 counseling entry of 31 July 2023, nonjudicial punishment (NJP), and the adverse fitness report for the reporting period 3 January 2023 to 31 July 2023.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 20 February 2025 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. On 31 July 2023, Commanding Officer (CO), [REDACTED], imposed NJP on Petitioner after determining Petitioner had wrongfully operated his personal vehicle while under the influence of alcohol with a BAC of .08% or higher. The CO awarded forfeiture of pay, restriction, and extra duties but suspended the restriction and extra duties for a period of six months. See enclosure (2).

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c. On the same day, Petitioner was issued a Page 11 counseling him after the imposition of NJP. Additionally, he was issued a Page 11 stating he was eligible but not recommended for promotion to Gunnery Sergeant for 12 months due to violating Article 113 of reference (b). Lastly, Petitioner received a Commandant of the Marine Corps (CMC) Directed (DC) fitness report for the reporting period 3 January 2023 to 31 July 2023. See enclosures (3) through (5).

d. By letter of 22 May 2024, CO, [REDACTED], set aside the NJP of 31 July 2023 and restored all rights, privileges, and property. The CO based his set aside action on the determination by the civilian court that Petitioner's BAC was not .08% or higher. See enclosure (6).

e. Petitioner contends he was wrongfully charged [by the civilian court] and punished for driving under the influence; which led to a wrongful NJP. Based on the CO's set aside of the NJP, Petitioner contends all associated documents – the Page 11 entries, the Unit Punishment Book (UPB), and the DC fitness report – should be removed from his record so “no condemning paperwork” remains. See enclosure (1).

CONCLUSION

Upon review and consideration of all the evidence, the Board determined Petitioner's request warrants partial relief.

Relying on enclosure (6), the Board determined the Page 11 entries of 31 July 2023 and the UPB entry of 31 July 2023 should be removed from Petitioner's Official Military Personnel File.

However, the Board did not consider Petitioner's request to remove the fitness report for the reporting period 3 January 2023 to 31 July 2023 because he has not exhausted his administrative remedies by first requesting the Performance Evaluation Review Board (PERB) remove the adverse report. Upon submission of a request to the PERB, the PERB will review Petitioner's request and, at a minimum, modify the fitness report consistent with the set aside of the NJP and the Board's decision to remove the Page 11 entries and UPB.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2), the UPB entry of 31 July 2023 and enclosures (3) and (4), the Page 11 entries of 31 July 2023.

That no further changes be made to Petitioner's naval record.

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

3/13/2025

