



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 2803-07  
5 September 2008

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

Subj: [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

- Encl: (1) DD Forms 149 (2) dtd 24 Feb 07,  
each w/attachments  
(2) HQMC MIO memo dtd 26 Jul 07 w/enclosure  
(3) Subject's ltr dtd 7 Aug 07 w/enclosures  
(4) HQMC MMER/PERB memo dtd 9 Jan 08  
(5) HQMC MIO memo dtd 4 Apr 08  
(6) Subject's ltr dtd 15 Feb 08 w/enclosures  
(7) HQMC MMER/PERB memo dtd 8 Jul 08  
(8) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, removal of the Marine Corps Total Force System (MCTFS) weight control entries for 8 July to 14 August 1996 and 23 April to 25 August 1997 (copy at Tab A in enclosure (1)). As indicated in enclosure (2), Headquarters Marine Corps (HQMC) has corrected the MCTFS data as he requested. He also requested removal of his service record page 11 ("Administrative Remarks (1070)") entries dated 23 July 1996 and 23 April 1997 (copies at Tab B in enclosure (1)) and 24 March 1999 (page 11d) (copy in enclosure (3)). He further requested removal of the fitness report for 20 November 1998 to 31 March 1999 (copy at Tab C in enclosure (1)). As indicated in enclosure (7), the HQMC Performance Evaluation Review Board (PERB) has directed modifying this report by removing from section F.5 (justification for mark in "Communication Skills") "for the third time in MRO [Marine reported on]'s career" and from section K.4 (reviewing officer's comments) "on three occasions."

2. The Board, consisting of Ms. Humphrey and Messrs. Koman and Washington, reviewed Petitioner's allegations of error and

injustice on 4 September 2008, and pursuant to its regulations, determined that limited relief should be granted. Documentary material considered by the Board consisted of the enclosures, 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, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies which were available under existing law and regulations within the Department of the Navy.

b. Petitioner made no statement in rebuttal to the contested adverse fitness report. The third sighting officer signed his addendum page.

c. In enclosure (2), the HQMC Manpower Information Operations, Manpower Management Information Systems Division (MIO) advised they had removed the contested MCTFS entries and commented to the effect that the page 11 entries dated 23 July 1996 and 23 April 1997 should stand.

d. In enclosure (3), Petitioner added his request to remove the page 11 entry dated 24 March 1999.

e. In enclosure (4), the HQMC PERB commented to the effect that the contested fitness report should stand.

f. In enclosure (5), the HQMC MIO commented to the effect that the page 11 entry dated 24 March 1999 was erroneous and therefore should be removed.

g. In enclosure (6), Petitioner contended that the contested fitness report improperly commented on his entire career rather than just the period covered, that the third sighting officer did not make findings and did not sign his addendum page, and that Petitioner did not rebut the report because he was told it was too late to do so and he did not understand the repercussions of not submitting a rebuttal.

h. In enclosure (7), the HQMC PERB advised they had directed modifying the fitness report at issue as stated in paragraph 1 above. The PERB commented to the effect that the report, as modified, should stand.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (5), the Board finds the existence of an error warranting partial relief, specifically, removal of the page 11d entry dated 24 March 1999. The Board concurs with enclosure (2) in finding the page 11 entries dated 23 July 1996 and 23 April 1997 should stand. The Board concurs with enclosure (7) in finding the contested fitness report, as modified, should stand. In this regard, the Board notes the third sighting officer did sign his addendum page and finds that since Petitioner made no statement, the third sighting officer was not required to make findings. Finally, the Board is unable to find Petitioner was improperly advised in connection with making a rebuttal to the report. In view of the above, the Board directs the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the service record page 11d ("Administrative Remarks (1070)") entry dated 24 March 1999. This is to be accomplished by physically removing the page 11 on which the entry appears, or completely obliterating the entry so it cannot be read, rather than merely lining through the entry.

b. That 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.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

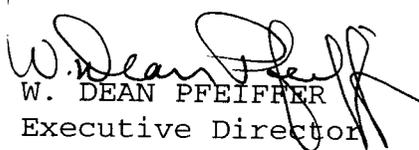
d. That the remainder of Petitioner's request be denied.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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.

ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

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.

  
W. DEAN PFEIFFER  
Executive Director