



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

CRS
Docket No: 4659-08
19 May 2009

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

Subj: [REDACTED] USN, [REDACTED] REVIEW OF NAVAL
RECORD

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

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner applied to this Board requesting that her naval record be corrected by setting-aside the nonjudicial punishment (NJP) she received on 24 July 2006 and advancing her to HM3 with time in rate credit for promotion to HM2.

2. The Board, consisting of Messrs. [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 13 May 2009 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, 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 available under existing law and regulations within the Department of the Navy.

b. Petitioner enlisted in the Navy on 23 November 2004.

c. On 24 July 2006 she received NJP for failure to obey a lawful order and making a false official statement. The punishment imposed consisted of forfeiture of \$713.00 pay per month for two months, reduction in rank, and restriction and extra duty for 45 days.

d. Petitioner argues that the NJP should be removed since she was assaulted by an Army sergeant, made a statement against him, and then felt pressured to withdraw the charge of assault and state that she had lied. She submitted a newspaper article that shows that the same person who she claims assaulted her also sexually assaulted a child. She believes that this proves that

she was assaulted by the same person but only withdrew her charge when pressured.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board believes Petitioner's version of the events surrounding her receipt of NJP, and concludes that the NJP should be set-aside.

The Board concluded further that the available records are insufficient to establish whether or not Petitioner would have been eligible and recommended for promotion at any time on or after the date on which the NJP was imposed. The Board believes that this is a matter which should be reviewed by her commanding officer, and depending upon the outcome of that review, become the subject of a new application for correction of her record.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by setting-aside the NJP she received on 24 July 2006, removing the record of the punishment from her record, and restoring all rights, benefits and privileges lost as a result of that punishment.

b. That no further relief be granted.

c. That a copy of this Report of Proceedings be filed in 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.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
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