



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

CRS
Docket No: 6056-08
23 September 2008

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

Subj: FORMER [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 his naval record be corrected by setting-aside the nonjudicial punishment imposed on him on 3 November 2005.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 3 September 2008 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 Marine Corps Reserve on 18 December 2001. On 3 November 2005 he received nonjudicial punishment for violating a lawful written order. The punishment consisted of a forfeiture of \$893 pay per month for two months, restriction for 45 days, and reduction in rank from sergeant (E-5) to corporal (E-4).

c. On 22 August 2008 an advisory opinion from Headquarters Marine Corps opined that the punishment imposed on Petitioner was disproportionate to the offense committed. Accordingly, the opinion recommended that Petitioner's request for relief be granted.

CONCLUSION:

Upon review and consideration of all the evidence of record the

Board concludes that Petitioner's request warrants favorable action. In this regard, the Board concurs with the advisory opinion. Accordingly, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by setting-aside the nonjudicial punishment of 3 November 2005, removing all related documents from his naval record, and restoring all rights, benefits and privileges he lost as a result of the nonjudicial punishment.

b. 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.

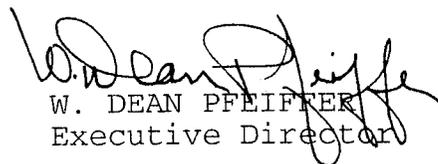
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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