



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

HD:hd
Docket No. 12104-08
19 March 2009

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

Subj: ~~REDACTED~~
REVIEW OF NAVAL RECORD (RECONSIDERATION)

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

Encl: (1) DD Form 149 dtd 19 Aug 08 w/attachments,
including Subject's ltr dtd 27 Oct 08
(2) BCNR ltr dtd 30 Oct 08 w/enclosures
(3) Subject's ltr dtd 12 Dec 08 w/enclosures
(4) PERS-311 memo dtd 10 Feb 09
(5) Memo for record dtd 10 Mar 09

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the fitness report for 16 September 2007 to 12 May 2008, a copy of which is at Tab A. As indicated in enclosure (2), the Board denied this request on 30 October 2008. By enclosure (3), Petitioner requested reconsideration, specifically requesting modification of the report by removing, from block 41 ("Comments on Performance"), reference to the revocation of his chief warrant officer application and his end of tour award.

2. The Board, consisting of Messrs. Butherus, Delorier and Storz, reviewed Petitioner's allegations of error and injustice on 19 March 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. In correspondence attached as enclosure (4), the Navy Personnel Command office having cognizance over the subject matter of Petitioner's case commented to the effect that it warranted partial relief, specifically, modification of the block 41 narrative to remove "and his end of tour award were both," so the sentence concerned will read as follows: "As a result, his Chief Warrant Officer application revoked due to his poor personal behavior during the latter part of this evaluation period."

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (4), the Board finds the existence of an error warranting the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying as follows the fitness report for 16 September 2007 to 12 May 2008, dated 12 May 2008 and signed by [REDACTED]
USN:

Block 41: Delete "and his end of tour award were both," so the corrected sentence will read as follows: "As a result, his Chief Warrant Officer application revoked due to his poor personal behavior during the latter part of this evaluation period."

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. 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