



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

HD:hd
Docket No. 00656-09
3 April 2009

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 23 Jan 09 w/attachments
(2) PERS-311 memo dtd 20 Feb 09
(3) Subject's ltr dtd 20 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 of record for 1 November 2007 to 8 August 2008 signed by Petitioner on 11 August 2008 (copy at Tab A) and the reporting senior's letter-supplement dated 24 November 2008 (copy at Tab B) and filing in their place the more favorable fitness report for the same period signed by Petitioner on 14 August 2008 (first document attached to application in enclosure (1)).

2. The Board, consisting of Ms. Colbert and Messrs. Storz and Tew, reviewed Petitioner's allegations of error and injustice on 2 April 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. Enclosure (1) was filed in a timely manner.

c. The only differences between the report of record and the report Petitioner provides are that block 35 ("Military Bearing/Character") of the report of record shows "4.0" (fourth best of five possible marks), while the report Petitioner provides shows "5.0" (best); block 45 of the report of record shows a "Member Trait Average" and Summary Group Average" of "4.67" while the report Petitioner provides shows "4.83" and block 46 of the report of record shows Petitioner's signature date as 11 August 2008, while the report he provides shows 14 August 2008.

d. The reporting senior's fitness report letter-supplement says the change of block 35 from "4.0" to "5.0" was "due to administrative error." Petitioner provides a letter dated 23 December 2008 from the reporting senior's staff (last document attached to application at enclosure (1)), supporting Petitioner's contention that the report of record should have been destroyed, but was mistakenly forwarded for file in Petitioner's record instead of the more favorable report he requests entering in his record.

e. In correspondence attached as enclosure (2), the Navy Personnel Command office having cognizance over fitness reports commented to the effect Petitioner's request should be denied, as the letter-supplement has been added to the record, and Petitioner does not prove the contested report to be in error.

f. In enclosure (3), Petitioner's reply to enclosure (2), he maintains the letter of 23 December 2008 from the reporting senior's staff does establish that the report of record is erroneous and should be replaced by the more favorable report.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the contents of enclosure (2), and particularly in light of the letter from the reporting senior's staff, the Board finds an error and injustice warranting the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying as follows the fitness report for 1 November 2007 to 8 August 2008, signed by [REDACTED], USN, on 1 August 2008 and by Petitioner on 11 August 2008:

- (1) Block 35: Change from "4.0" to "5.0."
- (2) Block 45: Change "Member Trait Average" and Summary Group Trait Average" from "4.67" to "4.83."
- (3) Block 46: Change date of Petitioner's signature from 11 August 2008 to 14 August 2008.

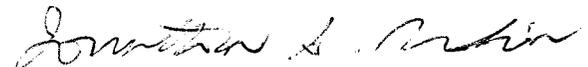
b. That his record be corrected further by removing the reporting senior's fitness report letter-supplement dated 24 November 2008.

c. 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.

d. 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.

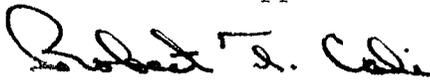
ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.


W. DEAN PFEIFFER

Reviewed and approved:


4-9-09

Robert T. Call
Assistant General Counsel
(Manpower and Reserve Affairs)