



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

JSR  
Docket No: 5012-09  
29 May 2009

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 Form 149 dtd 16 Jan 09 w/attachments  
(2) HQMC MMER/PERB memo dtd 7 May 09  
(3) Subject's ltr dtd 8 May 09 w/enclosures  
(4) 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, that his naval record be corrected by modifying the fitness report for 1 July to 24 October 2006 (copy at Tab A), in accordance with the letters at enclosure (1) from the reporting senior (RS) and reviewing officer (RO), undated and dated 8 January 2009, respectively, by raising the marks in sections D.1 ("Performance"), E.2 ("Effectiveness under Stress"), E.3 ("Initiative"), F.1 ("Leading Subordinates"), F.2 ("Developing Subordinates"), F.3 ("Setting the Example"), F.5 ("Communication Skills"), G.1 ("Professional Military Education"), G.2 ("Decision Making Ability") and G.3 ("Judgment") from "C" (fifth best of seven possible marks) to "D" (fourth best) and sections D.2 ("Proficiency") and F.4 ("Ensuring Well-being of Subordinates") from "D" to "E" (third best). He further requested modifying the fitness report for 14 December 2006 to 31 May 2007 (copy at Tab B), in accordance with the letters from the RS and RO, by raising the marks in sections E.2, E.3, F.1, F.2, F.3, F.5, G.1, G.2 and G.3 from "C" to "D" and sections D.1, D.2 and F.4 from "D" to "E."

2. The Board, consisting of Ms. Willis and Messrs. Bowen and Ivins, reviewed Petitioner's allegations of error and injustice on 29 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 which were available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. The RS's letter states he failed to consult his RS profile during the reporting process, resulting in marks "not reflective of [Petitioner's] performance relative to other Marines [he has] reported on in the past." The RO's letter acknowledges the errors the RS made and says he concurs with the proposed higher marks.

d. Enclosure (2) is the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB) in Petitioner's case. The PERB denied his request, stating that "No details or explanation is [sic] given to indicate why the markings are erroneous, that the revised marks were submitted several years after the fact, that "these changes were most likely requested solely to make the petitioner's record more competitive" and that "Changes of this nature are considered to be 'gaming the system', and serve to undermine the integrity of the performance evaluation system."

e. In enclosure (3), Petitioner's reply to the PERB report, he stresses that the RS says he made a mistake, and Petitioner explains why the changes were not submitted sooner.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding enclosure (2), and especially in light of the RS's letter, the Board finds an error and injustice warranting the requested relief. The Board notes that the RS says he made a mistake in failing to check his profile, and the Board feels Petitioner should not be punished for the RS's error. In view of the above, the Board recommends the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying as follows the fitness report for 1 July to 24 October 2006, dated 27 March 2007 and signed by [REDACTED]

(1) Sections D.1, E.2, E.3, F.1, F.2, F.3, F.5, G.1, G.2 and G.3: Raise from "C" to "D."

(2) Sections D.2 and F.4: Raise from "D" to "E."

b. That his record be corrected further by modifying as follows the fitness report for 14 December 2006 to 31 May 2007, dated 20 March 2008 and signed by [REDACTED]

(1) Sections E.2, E.3, F.1, F.2, F.3, F.5, G.1, G.2 and G.3: Raise from "C" to "D."

(2) Sections D.1, D.2 and F.4: Raise from "D" to "E."

c. That the magnetic tape maintained by HQMC be corrected accordingly.

d. 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 be added to the record in the future.

e. 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.

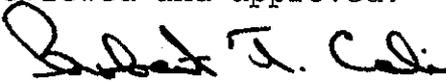
ROBERT D. ZSALMAN  
Recorder

  
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:



6-26-02

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