



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

REC
Docket No: 00690-10
11 March 2010

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

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, filed enclosure (1) with this Board requesting, in effect, that dates of Time Lost on his DD-214 be corrected from 60 to 56 days.

2. The Board, consisting of Mr. [REDACTED] Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 March 2010 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 (1) through (3), an advisory opinion, 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 did not exhaust 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. Petitioner enlisted in the Marine Corps on 12 September 2006, at the age of 18. However, during the course of his 17 month enlistment, he commenced two periods of unauthorized absence (UA), the first period for 4 days and the second for 54 days. Petitioner received nonjudicial punishment (NJP) for being UA for 60 days according to his record and was awarded forfeiture of \$1,300, reduction in pay grade to E-1 and 60 days restriction. A Mental Health Evaluation was conducted on the Petitioner and he was diagnosed with an adjustment disorder with depressed mood and was recommended for separation. Petitioner received a type warranted by service record general discharge, for a condition not a disability with an RE-3P reenlistment code.

d. With his application, Petitioner forwarded a copy of the minutes from his NJP, which clearly showed the Board that he was charged for a period of UA totaling 56 days vice 60. The minutes were signed by the commanding officer.

e. The Board requested an advisory opinion in this case from Commandant of the Marine Corps to confirm Petitioner's periods of UA. The advisory states in effect that his request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record and especially the advisory opinion, the Board concludes that Petitioner's request warrants favorable action. Accordingly, the Board concludes that, relief in the form of correcting the Petitioner's service record is appropriate.

In view of the foregoing, the Board finds the existence of an error warranting the following corrective action.

RECOMMENDATION:

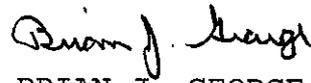
a. That Petitioner's naval record be corrected to show that his second dates of time lost during this period on DD Form 214 block 29 should reflect 20070208-20070211 (4) and 20071210-20080204 vice 20070208-20070211 (4) 20061210-20070207 (60).

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.

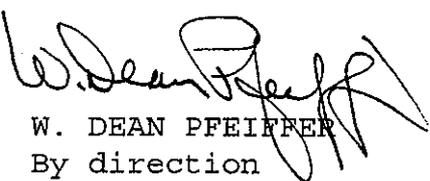
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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


BRIAN J. GEORGE
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 Regulation, 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
By direction