



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

JSR
Docket No. 2819-10
1 July 2010

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 12 Mar 10 w/attachments
(2) HQMC MMER/PERB memo dtd 7 May 09 and
copy of removed fitrept for 1 Jan - 23 May 07
(3) MCRC memo dtd 22 Jun 10
(4) Subject's naval record

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 documentation of his relief for cause (RFC) from recruiting duty. A copy of the only pertinent document still in his Official Military Personnel File (OMPF) is at Tab A. He also impliedly requested restoring his additional military occupational specialty (AMOS) of 8411 (recruiter), which was voided as a result of the RFC, and his special duty assignment (SDA) pay, which was terminated on 29 June 2007 as a result of the RFC. Finally, he impliedly requested that the Marine Corps Total Force System (MCTFS) data pertaining to him be corrected by removing the draw case code "AM" (relieved from recruiter duty).

2. The Board, consisting of Messrs. Grover, Ivins and McBride, reviewed Petitioner's allegations of error and injustice on 1 July 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, 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. At enclosure (2) are copies of the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB) directing removal of the adverse fitness report for 1 January to 23 May 2007 and the report itself. PERB directed removing this report because it documented the nonjudicial punishment (NJP) of 23 May 2007 that has been set aside by the officer who awarded it.

c. In correspondence attached as enclosure (3), the Marine Corps Recruiting Command office having cognizance over the subject matter of Petitioner's case has commented to the effect that the request has merit and warrants favorable action, because the NJP on which the RFC was based has been set aside.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an error and injustice warranting the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the Approve Active RELM (reenlistment/extension/lateral move) document created on 12 December 2007, reflecting the approval of Petitioner's RFC (OMPF, Commendatory Derogatory - Other folder, image 3).

b. That his record be corrected further to show his AMOS of 8411 was not voided.

c. That his record be corrected further to show that his SDA pay was not terminated on 29 June 2007, but continued to his transfer from Recruiting Station Houston, Texas on 21 November 2007.

d. That his record be corrected further by modifying the MCTFS data to remove the draw case code "AM."

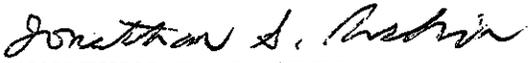
e. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or

completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

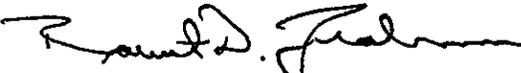
f. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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


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