



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

BJG  
Docket No: 3744-10  
22 April 2010

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 14 Jul 09 w/attachments  
(2) HQMC MMER/PERB memo dtd 17 Nov 09  
(3) HQMC JAM3 memo dtd 1 Oct 09  
(4) Subj'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 removing the fitness report for 1 April to 21 August 2008. As explained in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has removed the contested report. He further requested removal of the nonjudicial punishment (NJP) of 21 August 2008, and by implication, the service record page 11 ("Administrative Remarks (1070)") entry dated 21 August 2008, and his undated rebuttal statement, copies of which are at Tab A.

2. The Board, consisting of Mr. [REDACTED] and Mses. [REDACTED] and [REDACTED], reviewed allegations of error and injustice on 20 April 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. Petitioner exhausted all administrative remedies which were available under existing law and regulations within the Department of the Navy.

b. In enclosure (3), the HQMC Military Law Branch, Judge Advocate Division has commented to the effect that Petitioner's request to remove his NJP and page 11 entry has merit and warrants favorable action.

CONCLUSION:

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

RECOMMENDATION:

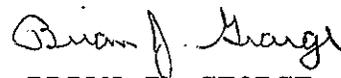
a. That Petitioner's naval record be corrected by removing the service record page 11 ("Administrative Remarks" (1070)) entry dated 21 August 2008 and his undated rebuttal statement. This is to be accomplished by physically removing the page 11 and rebuttal statement, rather than merely lining through them.

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 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