



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

JSR

Docket No. 6893-10

16 June 2011

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 15 Apr 10 w/attachments,
incl Subject's ltrs dtd 9 and 12 Jul 10,
each w/enclosures
(2) HQMC MMER/PERB memo dtd 18 Apr 11
(3) HQMC MIO memos dtd 9 Sep 10 and 22 Apr 11
(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 the fitness reports for 5 April to 31 December 2006 (denied on 20 March 2008, docket number 1029-08), 1 January to 31 December 2007, 1 January to 26 May 2008, 27 May to 30 June 2008, 1 July to 26 September 2008, 27 September to 31 December 2008, 1 January to 8 May 2009 and 9 May to 31 December 2009, copies of which are at Tabs A through H, respectively. Enclosure (2) shows that the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removing all contested reports, except those for 1 January to 31 December 2007 and 1 January to 26 May 2008. Petitioner further requested removing the service record page 11 ("Administrative Remarks (1070)") entries and the unit diary entry relating to his assignment to the Body Composition Program. Copies of the pertinent page 11 entries are at Tab I.

2. The Board, consisting of Messrs. Dixit, Silberman and Vogt, reviewed Petitioner's allegations of error and injustice on 16 June 2011, 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. In enclosure (2), the HQMC PERB commented to the effect that the ~~remaining contested~~ fitness reports, for 1 January to 31 December 2007 and 1 January to 26 May 2008, should stand.

c. In enclosure (3), the HQMC office having cognizance over the subject matter of page 11 and weight control entries has commented to the effect that Petitioner's request has merit and warrants favorable action. That office specifically recommended removing the page 11 entries dated 15 June, 31 August, 16 October and 21 December 2009 and 29 July and 27 September 2010, as well as the Marine Corps Total Force System (MCTFS) weight control entry dated 3 June 2009.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) and (3), the Board finds the existence of an error and injustice warranting the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the service record page 11 ("Administrative Remarks (1070)") entries dated 15 June, 31 August, 16 October and 21 December 2009 and 29 July and 27 September 2010. This is to be accomplished by physically removing the page 11's on which the entries appear, or completely obliterating the entries so they cannot be read, rather than merely lining through them.

b. That his record be corrected further by deleting from the MCTFS data the weight control entry dated 3 June 2009.

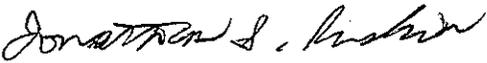
c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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.

e. That the remainder of Petitioner's request be denied.

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.


For W. DEAN PFEIFFER
Executive Director