



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

SJN
Docket No: 07897-10
20 October 2010

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]

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

Encl: (1) DD Form 149 dtd 15 Jul 10 with attachments
(2) Case Summary
(3) HQMC JAR1 memo dtd 8 Oct 10

1. Pursuant to the provisions of reference (a), Petitioner, an active duty commissioned officer of the Marine Corps, filed enclosure (1) with this Board requesting that the nonjudicial punishment (NJP) he received on 19 June 2009 be removed from his Official Military Personnel File (OMPF).

2. The Board, consisting of Mr. [REDACTED], Ms. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 19 October 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. On 19 June 2009, Petitioner went to NJP before the Commander, 2d Marine Division, and was found guilty of conduct unbecoming an officer and a gentleman. The Division Commander imposed no punishment, but gave him a non-punitive letter of caution (NPLOC). In his application, Petitioner states that the material in his OMPF is unjustified, unfair, punitive in nature and contrary to his Commander's intent.

c. Enclosure (3) is an advisory opinion from the Staff Judge Advocate to the Commandant of the Marine Corps recommending relief because an NPLOC is not a punishment, so Petitioner did not technically receive an NJP.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (3), the Board concludes that Petitioner's request warrants full relief and that the NJP be removed from his OMPF.

RECOMMENDATION:

a. That all derogatory material pertaining to Petitioner's NJP held on 19 June 2009, be removed from his OMPF, along with all associated documentation.

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.

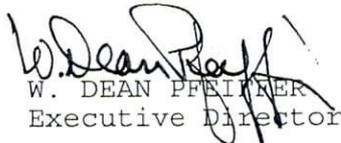
c. That any material direct to be removed from Petitioner's naval record be returned to this Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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
Executive Director