



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

SJN
Docket No: 11288-10
4 August 2011

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

Subj: [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, an active duty enlisted member of the Navy, filed enclosure (1) with this Board requesting that the nonjudicial punishment (NJP) he received on 16 May 2008 be removed from his Official Military Personnel File (OMPF) and Navy Standard Integrated Personnel System (NSIPS).

2. The Board, consisting of Mr. Blanchard, Ms. McCormick, and Mr. J. Hicks, reviewed Petitioner's allegations of error and injustice on 2 August 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. On 16 May 2008, Petitioner received NJP for failure to obey a lawful order. He was awarded a reduction in paygrade and a suspended forfeiture of pay.

c. In his application, Petitioner states that his commanding officer (CO) set aside the NJP, and ensured him that it was going to be like it never happened. Further, that he was reinstated to paygrade E-6 with his original time in rate, and all forfeitures

of pay were returned. However, the NJP is still reflected in his records.

d. On 28 July 2011, the CO, USS DWIGHT D. EISENHOWER (CVN 69), CAPT H---, who was Petitioner's CO at the time of the NJP onboard the USS PELELIU, forwarded an e-mail to this Board. It stated, in part, that while he no longer has Petitioner's records, he most certainly "set aside" the NJP he received on 16 May 2008. Essentially, he wanted his record to be as if it never occurred, and it was not to be noted in his evaluations, or be a part of his official records.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the supporting e-mail from Petitioner's CO at the time of NJP, the Board concludes that his request warrants favorable action in the form of relief.

After careful and conscientious consideration of the entire record, the Board concludes that Petitioner's NJP of 16 May 2008 should be removed from his OMPF and NSIPS.

RECOMMENDATION:

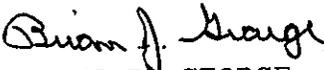
a. That Petitioner's Court Memorandum (NAVPERS 1070/607) and Administrative Remarks (NAVPERS 1070/613) counseling warning dated 16 May 2008 be removed from his OMPF and NSIPS, along with all associated documentation relating to it.

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.

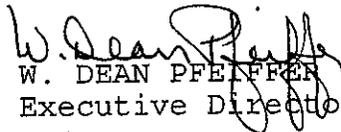
c. That any material direct to be removed from Petitioner's naval record be returned to this Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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