



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

Docket No: 05165-11
22 June 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 United States Navy, filed enclosure (1) with this Board requesting, in effect, that his record reflect the removal of a nonjudicial punishment (NJP) which occurred on 5 May 2009.

2. The Board, consisting of Mr. Ivins, Mr. Spain, and Mr. Tew, reviewed Petitioner's allegations of error and injustice on 22 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, and enclosures (1) through (3).

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 did exhaust all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 2 October 2008. He served honorably until 5 May 2009, when he received NJP for an unauthorized absence. His commanding officer set aside the NJP. Although the NJP has been removed from his service record, it has not been removed from his official military personnel file (OMPF) or his evaluation report and counseling record for the period 16 June 2008 to 15 June 2009.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of Petitioner's set aside letter from his commanding officer, the Board concludes that his request warrants favorable action.

In view of the foregoing, the Board finds the existence of an error warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing his NJP of 5 May 2009.

b. That Petitioner's record be further corrected by modifying his evaluation report and counseling record of 16 June 2008 to 15 June 2009 as follows:

(1) Change block 36 (Military Bearing/Character from "2.0" (Progressing) to "NOB" (Not Observed)).

(2) Remove from block 43 (Comments on Performance) the following comment: "Blk 36: Found guilty of violating UCMJ Article 86 (Unauthorized Absence). Awarded 17 days restriction and 17 days extra duty.

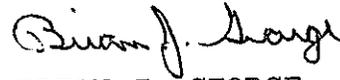
c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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.

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
By direction