



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

REC
Docket No: 00511-12
6 February 2012

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Subject's naval record
(4) Commanding officer's set-aside ltr dtd 12Mar07

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his record reflect removal of a nonjudicial punishment (NJP) he received on 27 October 2006.

2. The Board, consisting of Mr. Boyd, Mr. Gorenflo, and Mr. Midboe, reviewed Petitioner's allegations of error and injustice on 1 February 2012, 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 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 entered the Marine Corps on 7 October 2002. He served honorably until 27 October 2006, when he received NJP

for violation of Article 128, Uniform Code of Military Justice: Assault. He was awarded a forfeiture of ½ months pay for two months, (suspended), reduction in pay grade, and 45 days restriction/extra duty. Per enclosure (4), the NJP was set-aside by the officer who imposed it.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (4), the Board concludes that Petitioner's request warrants favorable action, by removing the NJP from his record.

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 to show that his NJP on 27 October 2006, for violation of Article 128 be removed.

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.

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