



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

SJN
Docket No: 01429-12
15 February 2012

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

Subj: REVIEW OF NAVAL RECORD OF [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 record of unauthorized absence (UA) (NAVPERS 1070/606) forms dated 20 January and 20 February 2009, covering the period from 31 December 2008 to 4 January 2009, be removed from his Official Military Personnel File (OMPF).

2. The Board, consisting of Mr. Hotopp, Ms. Barrow, and Mr. Blanchard, reviewed Petitioner's allegations of error and injustice on 14 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 exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In his application, Petitioner has submitted documentation which indicates that the period of UA in question was determined not to be unauthorized.

c. A review of Petitioner's OMPF shows that on 20 January 2009, a record of UA form was submitted reporting him being absent from 31 December 2008 and surrendering on 4 January 2009. A second record of UA form was submitted on 20 February 2009 covering the same period and stated that "absence determined not to be unauthorized". Both were signed by the same legal leading petty officer.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action in the form of relief.

After careful and conscientious consideration of the entire record, the Board concludes that the available evidence in the record shows that Petitioner's period of UA from 31 December 2008 to 4 January 2009, was determined not to be unauthorized. Accordingly, all such documentation in the record should be removed.

RECOMMENDATION:

a. That Petitioner's record of UA (NAVPERS 1070/606) dated 20 January 2009 and 20 February 2009, documenting his absence from 31 December 2008 to 4 January 2009, be removed from his OMPF.

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