



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

BJG
Docket No: 4419-12
17 September 2012

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 29 Feb 12 w/attachments
(2) HQMC MMER/PERB memo dtd 24 Apr 12
(3) HQMC JAM memo dtd 9 Apr 12
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected by removing the fitness report for 1 June to 1 July 2011 (copy at Tab A) and the nonjudicial punishment (NJP) of 1 July 2011 (copy of Unit Punishment Book (UPB) entry at Tab B).

2. The Board, consisting of Messrs. W. Hicks, Spooner and Swarens, reviewed Petitioner's allegations of error and injustice on 13 September 2012, and pursuant to its regulations, determined that the limited 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 the Board, Petitioner exhausted all administrative remedies which were available under existing law and regulations within the Department of the Navy.

b. The Supplemental Page of the UPB entry includes the following: "BLOCK 1 Art. [Article] 134 In that [Petitioner],

USMC, on active duty, did, at or near Kitsap County, WA, on or about 3 Jun 11, received [sic] a citation from the Washington State Patrol, which conduct was prejudicial to good order and discipline in the Armed Forces or of a nature to bring discredit upon the armed forces."

c. The last sentence of section I (reporting senior's "Directed and Additional Comments") of the contested fitness report reads as follows: "Directed Comment, Sect[ion] A, Item 6C [sic]: SNM [Subject named Marine] was charged and found guilty of Articles 111 and 134 in that SNM received a citation from Washington State Patrol for operation of a vehicle under the influence of alcohol; conduct that is prejudicial to good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces."

d. In enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) commented to the effect that the contested fitness report should stand.

e. In enclosure (3), the HQMC Judge Advocate Division commented to the effect that the NJP at issue should stand, but that the UPB entry should be amended to remove reference to the Article 134 charge, as it fails to state an offense.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosures (2) and (3), the Board finds an error warranting the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the following from the Supplemental Page of the UPB entry for the NJP of 1 July 2011:

BLOCK 1 Art. 134 In that [Petitioner], USMC, on active duty, did, at or near Kitsap County, WA, on or about 3 Jun 11, received [sic] a citation from the Washington State Patrol, which conduct was prejudicial to good order and discipline in the Armed Forces or of a nature to bring discredit upon the armed forces.

b. That his record be corrected further by modifying as follows the last sentence in Section I (reporting senior's "Directed and Additional Comments") of the fitness report for 1

June to 1 July 2011, dated 25 July 2011 and signed by [REDACTED]
[REDACTED]

(1) Remove the "s" from the word "Articles."

(2) Remove "and 134 in that SNM received a citation from Washington State Patrol" and "; conduct that is prejudicial to good order and discipline in the armed forces and of a nature that brings discredit upon the armed forces".

The sentence, as corrected, will read as follows: "Directed Comment, Sect A, Item 6C: SNM was charged and found guilty of Article 111 for operating a vehicle under the influence of alcohol."

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.

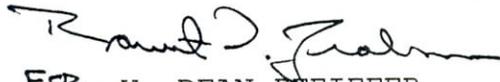
e. That the remainder of Petitioner's request be denied.

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

Jonathan S. Ruskin
JONATHAN S. RUSKIN
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 Regulations, 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.



FOR W. DEAN PFEIFFER
Executive Director