



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

BJG
Docket No: 6982-12
5 November 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 5 Mar 12 w/attachments
(2) HQMC MMER/PERB memo dtd 26 Jun 12
(3) HQMC JAM1 memo dtd 13 Apr 12
(4) HQMC MIO memo dtd 20 Jul 12
(5) 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 2 March to 31 December 2007 (copy at Tab A) and the service record page 11(c) ("Administrative Remarks (1070)") entry dated 28 June 2007 with his rebuttal dated 6 July 2007 (copies at Tab B). As shown in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removing the contested fitness report.

2. The Board, consisting of Ms. Zivnuska and Messrs. Mann and Zsalman, reviewed Petitioner's allegations of error and injustice on 1 November 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 the Board, Petitioner exhausted all administrative remedies which were available under existing law and regulations within the Department of the Navy.

b. In enclosure (3), the HQMC Judge Advocate Division has commented to the effect that Petitioner's request to remove the fitness report at issue has merit and warrants favorable action.

c. In enclosure (4), the HQMC Manpower Information Quality Assurance, Manpower Management Information Systems Division has commented to the effect that Petitioner's request to remove the page 11(c) entry and rebuttal also has merit and warrants favorable action.

d. The page 11(c) on which the contested entry appears also includes an uncontested entry.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (4), the Board finds an error and injustice warranting the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the service record page 11(c) ("Administrative Remarks (1070)") entry dated 28 June 2007 and his rebuttal dated 6 July 2007. This is to be accomplished by reconstructing the page 11(c) on which the entry appears and physically removing the rebuttal, or completely obliterating the entry and rebuttal so they cannot be read, rather than merely lining through them.

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 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

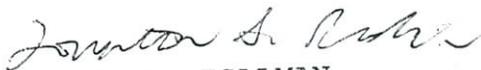
foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



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 
ROBERT D. ZSALMAN
Acting Executive Director