



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

JSR
Docket No. 12640-12
24 January 2013

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 2 Oct 12 w/attachments
(2) HQMC MMR/PERB memo dtd 10 Dec 12
(3) HQMC MMSB e-mail dtd 17 Jan 13
(4) HQMC MIQ memo dtd 4 Jan 13
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the fitness report for 13 July to 5 August 2010 (copy at Tab A), the Unit Punishment Book (UPB) entry for the nonjudicial punishment of 5 August 2010 (copy at Tab B), the service record page 11(b) ("Administrative Remarks (1070)") entry dated 5 August 2010 and Petitioner's undated rebuttal (copies at Tab C) and the page 11(c) entry dated 5 August 2010 (copy at Tab D). Enclosure (2) shows that the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed removing the contested fitness report. Enclosure (3) shows that HQMC has removed the contested UPB entry.

2. The Board, consisting of Messrs. Clemmons, Gorenflo and Midboe, reviewed Petitioner's allegations of error and injustice on 24 January 2013, 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 correspondence attached as enclosure (4), the HQMC office having cognizance over page 11 entries has commented to the effect that Petitioner's request regarding page 11 entries has merit and warrants favorable action.

CONCLUSION:

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the service record page 11(b) ("Administrative Remarks (1070)") entry dated 5 August 2010 and his undated rebuttal. This is to be accomplished by physically removing the page 11(b) on which the entry appears and the rebuttal, or completely obliterating the entry and rebuttal so they cannot be read, rather than merely lining through them.

b. That his record be corrected further by removing the service record page 11(c) entry dated 5 August 2010. This is to be accomplished by physically removing the page 11(c) on which the entry appears, or completely obliterating the entry so it cannot be read, rather than merely lining through it.

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

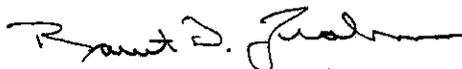
Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



JONATHAN S. RUSKIN
Acting Recorder

ROBERT D. ZSALMAN
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.



FRW. DEAN PFEIFFER
Executive Director