



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

JSR
Docket No. NR593-13
31 July 2014

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 13 Dec 12 w/attachments
(2) HQMC MMSB/PERB memo dtd 23 Jan 14 and
HQMC e-mail dtd 1 May 14 w/attachment
(3) HQMC JAM2 memo dtd 28 Mar 13
(4) HQMC MIQ memo dtd 4 Mar 14
(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 1 to 29 April 2011 (copy at Tab A), removing the service record page 11 ("Administrative Remarks (1070)") entries dated 1 December 2010 and 10 May 2011 (copies at Tab B) and changing his reenlistment code from RE-3C (Commandant of the Marine Corps authority required for reenlistment) to RE-1A (recommended and eligible for reenlistment). Enclosure (2) shows that the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed modifying the contested fitness report by removing the entry "SMCR" (Selected Marine Corps Reserve) from section A, item 8.g ("Reserve Component"); removing from the sections F ("Leadership") and G ("Intellectual Wisdom") justifications "and CVC 23103.5 Guilty Plea of lesser included offense (DUI) [driving under the influence]"; removing from section I (reporting senior's "Directed and Additional Comments") "and CVC 23103.5 Guilty plea of lesser included offense (DUI)"; and modifying section K.4 (reviewing officer's comments) by removing "since the DUI conviction" and in the next to last sentence, removing "Except the DUI," and capitalizing the letter "H" in the word "He."

2. The Board, consisting of Ms. Countryman and Messrs. George and Midboe, reviewed Petitioner's allegations of error and injustice on 31 July 2014, 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 (2), the HQMC PERB commented to the effect that the contested fitness report, modified as indicated in paragraph 1 above, should stand.

c. In enclosure (3), the HQMC Judge Advocate Division commented to the effect that the contested fitness report, modified as indicated in paragraph 1 above, should stand; that the contested page 11 entries should not be removed, but that the entry dated 10 May 2011 should be modified to show Petitioner's promotion restriction was for six rather than 12 months; and that his reenlistment code should not be changed.

d. In enclosure (4), MIQ, the HQMC office with cognizance over page 11 entries, has commented to the effect that the contested entries should not be removed, but that the entry dated 10 May 2011 should be modified to show Petitioner's promotion restriction was for six rather than 12 months.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) through (4), the Board finds the existence of an error warranting the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying the first sentence of the service record page 11 ("Administrative Remarks (1070)") entry dated 10 May 2011, appearing on the right side of the page, by changing "12" to

"six," so that the sentence as corrected will read as follows:
"I understand that I am eligible but not recommended for promotion to SSgt [staff sergeant] due to a Wet Reckless and Reckless Driving conviction IAW [in accordance with] MCO [Marine Corps Order] P1400.32 (par 1204.41), for a period of six months as applicable, unless waived by appropriate authority."

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.

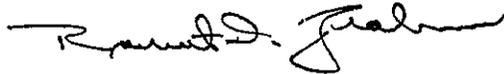
d. That the remainder of Petitioner's request be denied.

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
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.


ROBERT D. ZSALMAN
Acting Executive Director