



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

BAN  
Docket No:NR06094-13  
15 July 2013

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 dtd 3 Aug 2012 with attachments  
(2) Headquarters Marine Corps (HQMC) memo dtd  
22 April 2013  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, an enlisted member of the United States Marine Corps, filed enclosure (1) with this Board requesting, in effect, that he be reinstated to E-7/GySgt with an effective date of rank of 1 March 2011, and that his letter of revocation and page 11 entries referring to his E-7 promotion revocation be removed.

2. The Board, consisting of Messrs. Storz, Green and Chapman, reviewed Petitioner's allegations of error and injustice on 11 July 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. Petitioner enlisted in the Marine Corps on 24 July 1996. In Fiscal Year (FY) 2010, Petitioner was selected for promotion to E-7 by the Gunnery Sergeant (GySgt) Selection Board which convened on 13 April 2010.

c. On 19 February 2011, the commanding officer (CO) of 31<sup>st</sup> Marine Expeditionary Unit (MEU) convened a command investigation to look into the facts and circumstances surrounding the alleged misconduct committed by Petitioner during Exercise Cobra Gold 2011, conducted in the Kingdom of Thailand.

d. On 20 February 2011, Petitioner was relieved of his duties as the platoon sergeant due to the CO losing trust and confidence in his ability to lead. Additionally, on 24 February 2011, the CO requested that Petitioner's promotion to GySgt be held in abeyance pending the outcome of the investigation.

e. On 26 February 2011, the report was completed and it opined that Petitioner "lacked both the integrity and moral courage to make the unpopular decision to prohibit his unit from consuming alcohol and denying off base liberty". Further, the report recommended that Petitioner be relieved for cause as the senior noncommissioned officer in charge.

f. On 8 March 2011, Petitioner's CO concurred with the findings of the investigation. Furthermore, the CO recommended that Petitioner's promotion to GySgt be revoked, that he be issued a revocation letter and two page 11 counseling entries dated 11 and 27 April 2011, regarding removing his promotion recommendation. On 16 August 2011, Petitioner's name was removed from the FY 2010 Gunnery Sergeant Selection List by the Commandant of the Marine Corps.

g. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application, has commented to the effect that his request has merit and warrants favorable action. The Headquarters Marine Corps (HQMC) Enlisted Promotion Section (MMPR-2) states that the revocation was used as a form of punishment in the absence of any substantiated misconduct or punitive measures taken by the command. His command publicized in its request for revocation that its intention was to offer him nonjudicial punishment (NJP) for his alleged offenses in addition to his adverse fitness report for relief. However, his NJP never occurred and his fitness report has since been removed by HQMC. Therefore, MMPR-2 recommends favorable relief.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the favorable recommendation in enclosure (2), the Board concludes that Petitioner's request warrants favorable action. The Board notes that since HQMC recommended favorable action based on all of the facts in the case, and that his adverse fitness report has already been removed, this case warrants the relief requested. Therefore, in view of the

above, the Board recommends the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing his revocation letter dated 16 August 2011.

b. That Petitioner's record be further corrected by removing his adverse page 11 entries dated 11 and 27 April 2011.

c. That Petitioner be advanced to E-7/GySgt with an effective date of 1 March 2011.

e. 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.

f. 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

  
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