



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

TJR  
Docket No: 8368-13  
12 September 2014

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

Subj: [REDACTED]

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

Encl: (1) DD Form 149 with attachments  
(2) Case Summary  
(3) Petitioner's naval record  
(4) HQMC Military Justice Branch, Judge Advocate Division  
(JAM) ltr dtd 6JAN14

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that his naval record be corrected by removing derogatory material, specifically, a Unit Punishment Book (UPB) entry which documents an undated nonjudicial punishment (NJP). Presumably, this request includes, but is not limited to any and all other references surrounding the circumstances of this material from his Official Military Personnel File (OMPF), Electronic Service Record (ESR), and the Marine Corps Total Force System (MCTFS).

2. The Board, consisting of Messrs. Exnicios, Gattis, and Sproul, reviewed Petitioner's allegations of error and injustice on 3 September 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. In addition, the Board considered the advisory opinion (AO) furnished by the Headquarters Marine Corps (HQMC), a copy of which is provided as enclosure (4).

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. Enclosure (1) was filed in a timely manner.

c. Petitioner's record contains an undated NJP which reflects a 29 day period of unauthorized absence (UA) from 16 December 2008 to 15 January 2009. Although the UPB was signed, there are no other entries reflected on the document which refer to the offenses, advisement of rights, or final disposition.

d. An AO, enclosure (4), received from the Marine Corps regarding Petitioner's request to remove the incomplete documentation recommends relief. In this regard, the AO states, in part, that it is the command's responsibility to ensure that legal proceedings are properly and accurately conducted and documented; and in this case, the command did not fulfill this responsibility. As a result, all adverse material referencing the NJP should be removed from the record.

#### CONCLUSION:

Upon review and consideration of all the evidence of record and especially in light of the favorable AO, the Board concludes that Petitioner's request warrants relief. In this regard, the Board substantially concurs with the comments contained in the AO and concludes that since the documentation, as it appears in the record, is incomplete and/or insufficient as written and filed, all references should be removed from the record.

In view of the foregoing, the Board finds the existence of an error and injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing and/or totally obliterating all references regarding the undated and incomplete NJP.

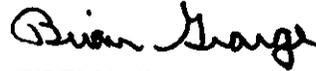
b. That any and all materials or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or materials be added to the record in the future.

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.

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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.



BRIAN J. GEORGE  
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.



ROBERT J. O'NEILL  
Executive Director