



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

TJR  
Docket No: 9019-13  
29 May 2014

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]  
[REDACTED]

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

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Subject's naval record/CD  
(4) HQMC JAM memo dtd 24APR14  
(5) HQMC MIQ memo dtd 7MAY14

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that her record be corrected by removing derogatory material (nonjudicial punishment (NJP), administrative remarks (Page 11) counselling, etc.) regarding a period of unauthorized absence (UA). Enclosures (1) through (3) apply.

2. The Board, consisting of Messrs. Exnicios, Hedrick, and Ruskin, reviewed Petitioner's allegations of error and injustice on 20 May 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 opinions (AO), enclosures (4) and (5), provided by the Headquarters Marine Corps (HQMC), copies of which are attached.

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 received orders to participate in the Transition Assistance Program (TAP)/Transition Assistance Management Program (TAMP) from 13 through 17 August 2012.

d. On 7 September 2012 Petitioner received NJP for a four day period of UA, specifically, for the period from 13 to 17 August 2012. The punishment imposed was a \$389 forfeiture of pay and restriction and extra duty for 14 days. The extra duty was suspended for six months.

e. Also on 7 September 2012, a page 11 entry was filed in Petitioner's record which referenced the foregoing NJP. This page 11 also stated, in part, that TAP/TAMP had ended around noon on 16 August 2012, but Petitioner had stayed an extra day so that she could get extra assistance. As a result, she did not return to her duty station until late afternoon on 17 August 2012.

f. Enclosure (4), an AO from the HQMC Military Justice Branch, Judge advocate Division, regarding Petitioner's request to remove the NJP and page 11, recommends relief. In this regard, the AO states, in part, that there is sufficient evidence to show that the NJP and page 11 counselling should be removed from the record. Based on the facts that Petitioner had authority to be at TAP/TAMP from 13 to 17 August 2012, which was her appointed place of duty, she had not been directed or ordered to return until completion of the course (even if it had ended early), and she remained at her appointed place of duty to seek additional transition guidance. As such, she was not in a UA status and the foregoing invalidates the NJP and page 11.

g. Enclosure (5), an AO from the HQMC Manpower Information Quality Assurance, Manpower Information Systems Division, is in full concurrence with the foregoing AO form JAM and also recommends the removal of the NJP and page 11.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the AOs, the Board finds the existence of an error and injustice warranting corrective action. In this regard, the Board concludes that the NJP imposed on 7 September 2012 and the page 11 entry dated the same day, and all references regarding the period of UA from 13 to 17 August 2012, should be removed from Petitioner's naval record. As a result of this action, Petitioner should be restored all rights and privileges resulting from the NJP.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing and/or totally obliterating all references regarding the NJP and the page 11 entry dated 7 September 2012.

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.

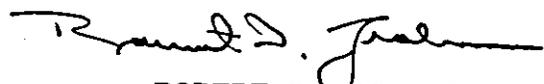
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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

  
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.

  
ROBERT D. ZSALMAN  
Acting Executive Director