



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

JSR

JSR
Docket No. NR9043-13
19 June 2014

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

Subj: MSGT [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 26 Aug 13 w/attachments
(2) Copy of removed fitrept for
1 Jul 08 to 15 Jul 09
(3) HQMC MMSB-18 e-mail 24 Jan 14
(4) HQMC MIQ memo dtd 3 Apr 14 w/enclosure
(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 service record page 11 ("Administrative Remarks (1070)") entry dated 1 December 2009 and his rebuttal dated 11 December 2009, copies of which are at Tab A.

2. The Board, consisting of Mes. Montgomery and Zivnuska and Mr. Genteman, reviewed Petitioner's allegations of error and injustice on 19 June 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. Petitioner contends that the contested page 11 entry should be removed as it was issued after his competency review board (CRB) proceedings were invalidated, and his fitness report for 1 July 2008 to 15 July 2009 (copy at enclosure (2)) has been removed by direction of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB).

c. Enclosure (3) reflects the basis for the PERB action, which was a finding that the wrong officer acted as the reviewing officer.

d. In correspondence attached as enclosure (4), MIQ, the HQMC office with cognizance over the subject matter of Petitioner's case, has commented to the effect that the request warrants partial relief, specifically, modification of the contested entry to remove ", which resulted in you being relieved for cause".

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 error warranting partial relief, specifically, modification of the contested entry to remove ", which resulted in you being relieved for cause". The Board is unable to find the invalidation of Petitioner's CRB proceedings was a factor in the issuance of the contested entry, nor can the Board find that the PERB action supports relief concerning that entry. In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing, from the service record page 11 ("Administrative Remarks (1070)") entry dated 1 December 2009, ", which resulted in you being relieved for cause".

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.

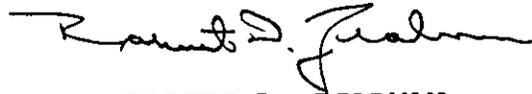
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



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.



ROBERT D. ZSALMAN
Acting Executive Director