



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

TJR
Docket No: 9085-13/
5173-14
20 May 2014

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]

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

Encl: (1) Case summary
(2) Subject's naval record/CD
(3) HQMC memo MIQ dtd 21FEB14
(4) HQMC memo MMRP-13/PERB dtd 9APR14 (Docket # 729-13)

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, applied to this Board requesting removal of derogatory material from his naval record, specifically, two administrative remarks (page 11) entries dated 28 August and 1 September 2011, regarding his civil involvement charge of driving under the influence (DUI) of alcohol. This request also includes the removal of a fitness report (FITREP) for the period from 25 June to 31 December 2011, which references the DUI. Enclosures (1) and (2) apply

2. The Board, consisting of Mr. Dixit, Mr. Sproul, and Ms. White-Olsen, reviewed Petitioner's allegations of error and injustice on 14 May 2014 and, pursuant to its regulations, determined that the partial 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 (3) and (4), furnished by Headquarters Marine Corps (HQMC).

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's application to the Board was filed in a timely manner.

c. On 23 July 2011 Petitioner was arrested by civil authorities and charged with DUI. As a result of this action he received an adverse FITREP for the period from 25 June to 31 December 2011.

d. On 29 August 2011 Petitioner was counselled regarding the 23 July 2011 incident and a page 11 entry was filed in his record. This entry stated, in part, that his driving privileges were immediately suspended and his base driving privileges revoked until completion of his involvement in traffic court on or about 9 September 2011.

e. On 1 September 2011 Petitioner was again counselled regarding the 23 July 2011 incident, and another page 11 entry was filed in his record. However, this page 11 entry provided more detailed information regarding the civil incident and the suspension of his base privileges.

f. An AO from Manpower Information Quality Assurance, Manpower Information Systems Division (MIQ), enclosure (3), recommends Petitioner's request for removal of one of the page 11 entries be granted, specifically, the page 11 dated 29 August 2011 since it does not contain all of the required information regarding the 23 July 2011 incident. With that being said, the AO recommends that the more detailed page 11 entry dated 1 September 2011 remain in the record.

g. An AO from the Performance Evaluation Review Board (PERB), enclosure (4), recommends Petitioner's request for removal of the adverse FITREP for the period from 25 June to 31 December 2011, be denied. However, the PERB did modify the report to reflect the correct verbiage.

CONCLUSION:

Upon review and consideration of all the evidence of record, and in concurrence with the AOs from HQMC, the Board concludes that Petitioner's requests warrant partial favorable action. The Board concludes that there is an existence of error in the record being that there is a duplicate page 11 entry for the same offense. In this regard, the Board further concludes that the record should be changed by removing the page 11 entry dated 29 August 2011.

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the page 11 entry dated 29 August 2011.

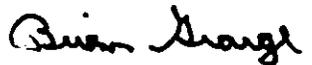
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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.

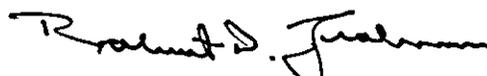
d. That no further relief be granted.

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