



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

TJR
Docket No: 9253-13
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 with attachments
(3) Subject's naval record/CD

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 an erroneously filed administrative remarks (page 11) entry dated 20 December 2012 regarding his disobeying a lawful order. This request includes, but is not limited to, removal of all references to the page 11 entry from his Official Military Personnel File (OMPF), the Marine Corps Total Force System (MCTFS), and his Electronic Service Record (ESR).

2. The Board, consisting of Ms. Trucco, Ms. Wilcher, and Mr. Zsalman, reviewed Petitioner's allegations of error and injustice on 26 August 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 two advisory opinions (AO) provided by Headquarters Marine Corps (HQMC), copies of which are attached to enclosure (2).

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 a page 11 entry dated 20 December 2012, which reflects that he was counselled concerning deficiencies in his performance, specifically, failure to obey an order or regulation. This entry does not specify the particular order that was disobeyed, recommendation for corrective action, or where to seek assistance within the command. It also fails to reflect a timeframe specifying his counselling on numerous occasions.

d. Two AOs from the HQMC (Military Law Branch, Judge Advocate Division (JAM) dated 16 May 2014 and Manpower Information Quality Assurance, Manpower Information Systems Division (MIQ) dated 30 July 2014) state, in part, that the page 11 entry was defective as written because it did not adhere to the guidelines and failed to meet the requirements for counselling. They further state that because the page 11 entry was incompletely and erroneously written and filed, it should be permanently removed from Petitioner's records.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the AOs, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board concludes that all references in his record regarding it should be removed or obliterated.

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected by totally obliterating or removing the 20 December 2012 page 11 entry and all references thereto.

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

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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.



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