



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

TJR
Docket No: 8638-14
26 May 2015

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USMC,
XXX-XX [REDACTED] 5 U.S.C. 552(b) (6)

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

Encl: (1) DD Form 149 with attachments
(2) Case Summary with attachments
(3) Petitioner's naval record (excerpts)

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 naval record be corrected by removing any and all derogatory material referencing the imposition of nonjudicial punishment (NJP) on 13 August 2013. This request includes, but is not limited to any and all other references surrounding the circumstances the NJP and Page 11 entries, as reflected in her Official Military Personnel File (OMPF), Electronic Service Record (ESR), and the Marine Corps Total Force System (MCTFS), where applicable. She further request that her eligibility date for the Good Conduct Medal (CGM) be reset.

2. The Board, consisting of [REDACTED] 5 U.S.C. 552(b) (6) reviewed Petitioner's allegations of error and injustice on 29 April 2015 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) furnished by Headquarters Marine Corps (HQMC), copies of which are attached to enclosures (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 received NJP on 13 May 2014, for failure to obey a lawful order (plagiarism) and was awarded a suspended reduction to paygrade E-3. Her record contains a Page 11 entry of the same date which reflects that unless waived by appropriate authority in accordance with MCO P1400.32 (par 1204.4p), she was placed on promotion restriction for a total of six (6) months due to the foregoing NJP. On 14 May 2014, she submitted a rebuttal to both the NJP and the Page 11.

d. Two advisory opinions received from the HQMC Military Personnel Law Branch (JPL/jal) and Manpower Information Quality Assurance, Manpower Information Systems Division (MIQ) recommend relief be denied regarding Petitioner's request remove the derogatory material from her record because no error or injustice occurred in the imposition of the NJP or the filing of the Page 11. The AOs further state that because there was no error or injustice in the record the date of her GCM should not be reset. However, the AOs did recommend that the Page 11 be corrected because it contained a typographical error. In this regard, the AOs stated that the cited MCO P1400.32 "(par 1204.4p)" was incorrectly referenced and should be corrected to read "(par 1204.4k)."

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial favorable action. In this regard, the Board substantially concurs with the comments contained in the advisory opinions and concludes that since the referenced paragraph regarding the promotion restriction, as it appears in the record, is erroneous, it should be corrected, but not removed.

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 correcting the Page 11 to reflect MCO P1400.32 (par 1204.4K) and that the cited "par 1204.4p" be totally obliterating from the record.

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.

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.

5 U.S.C. 552(b) (6)

T. J. REED
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.

5 U.S.C. 552(b) (6)

ROBERT J. O'NEILL
Executive Director