



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

TJR  
Docket No: 1043-14  
22 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) Petitioner's naval record/CD  
(4) HQMC JAM memo dtd 9MAY14

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 any and all derogatory material regarding the imposition of two nonjudicial punishments (NJP) on 7 May and 25 August 1997, from the Marine Corps Total Force System (MCTFS). This includes, but is not limited to any/all administrative remarks (page 11) entries, fitness reports (FITREP), and any/all references thereto. 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, a 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 opinion (AO) furnished by Headquarters Marine Corps (HQMC), a copy of which is provided in enclosure (4).

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. The MCTFS reflects that on 7 May and again on 25 August 1997, Petitioner received NJP. However, the NJPs are not reflected in his official military personnel file (OMPF), nor does it reflect any other references to these NJPs.

d. Petitioner contends that the two NJPs are not in his OMPF because they were appealed and subsequently removed.

e. An AO received from the HQMC Military Justice Branch, Judge Advocate Division (JAM), enclosure (4), regarding Petitioner's request to remove the NJPs from the MCTFS, recommended relief be granted because they are not documented in the OMPF, and it is the command's responsibility to ensure that legal proceedings are properly and accurately documented in both the OMPF and MCTFS. In this regard, the command's failure to properly document the NJPs in his OMPF negated the presumption that they were properly imposed or had been subsequently appealed and set aside.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's requests warrant favorable action. In this regard, the Board substantially concurs with the comments contained in the AO furnished by JAM and concludes that the NJPs and all derogatory material referencing them, should be removed from the MCTFS since they were improperly filed.

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

#### RECOMMENDATION:

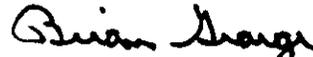
a. That Petitioner's naval record be corrected by removing and/or totally obliterating the two NJPs dated 7 May 1997 and 25 August 1997, as well as all references thereto.

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 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