



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

aw

JSR
Docket No. NR10691-14
30 October 2014

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

- Encl: (1) DD Form 149 dtd 1 Jul 14 w/attachments
(2) HQMC MMRP-13/PERB memo dtd 23 Sep 14
(3) HQMC JPL memo dtd 25 Aug 14 w/enclosures
(4) 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 fitness report for 1 January to 31 July 2007 (copy at Tab A). Enclosure (2) shows that the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removing the contested report. Petitioner also requested correcting his Marine Corps Total Force System (MCTFS) data by removing the Legal Action 119 Remarks entry reflecting his SCM (summary court-martial) of 9 July 2007, and he impliedly requested removing the Court Martial Deduct 990 Remarks entry reflecting his reduction to pay grade E-5 by court-martial of 9 July 2007.

2. The Board, consisting of Messrs. Exnicios, Ivins and Spain, reviewed Petitioner's allegations of error and injustice on 30 October 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. In correspondence attached as enclosure (3), the HQMC Military Personnel Law Branch has commented to the effect that the request to correct the MCTFS data has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an error warranting the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing from his MCTFS data the Legal Action 119 Remarks entry reflecting his SCM of 9 July 2007 and the Court Martial Deduct 990 Remarks entry reflecting his reduction to pay grade E-5 by court-martial of 9 July 2007.

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.

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
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 J. O'NEILL
Executive Director