



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

TJR  
Docket No: 11354-14  
11 March 2015

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USMC,  
XXX-XX-[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 a nonjudicial punishment (NJP) dated 15 May 2008, which reflects an erroneously filed offense of underage drinking. This request includes, but is not limited to, removal of all references to the NJP and the offense from his Official Military Personnel File (OMPF), the Marine Corps Total Force System (MCTFS), and her Electronic Service Record (ESR). Enclosures (2) and (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 3 March 2015, 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 opinion (AO) provided by Headquarters Marine Corps (HQMC), a copy of which is 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 an NJP entry dated 15 May 2008, which reflects, in part, an offense of being drunk due to consuming alcoholic beverages while under the legal drinking age. This NJP also reflects a second offense of disobeying a lawful order.

d. An advisory opinion from the HQMC Military Personnel Law Branch, Judge Advocate Division (JPL) states, in part, that because Petitioner was in fact of legal age, specifically, age 22, to consume alcoholic beverages in the state of Maryland, where the legal drinking age is 21, the verbiage should be permanently removed from his record. However, the advisory further states that the NJP itself should remain in the record since he was guilty of disobeying a lawful order by not reporting underage drinking by others.

**CONCLUSION:**

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

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

**RECOMMENDATION:**

a. That Petitioner's naval record be corrected by totally obliterating or removing the verbiage "drunk under the legal drinking age" 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 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.



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.



ROBERT J. O'NEILL  
Executive Director