



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

TJR
Docket No: 2083-14
22 January 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 (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting removal of derogatory material, specifically, a nonjudicial punishment (NJP) dated 18 June 2010, an undated administrative remarks (page 11) entry, an adverse Fitness Report (FITREP), and documentation regarding Relief For Cause (RFC), from her naval record. This request includes, but is not limited to, removal of all references to the NJP, page 11 entry, FITREP, and RFC documentation from her Official Military Personnel File (OMPF), the Marine Corps Total Force System (MCTFS), and his Electronic Service Record (ESR). Enclosure (3) applies.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 January 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 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 NJP dated 18 June 2010, for two specifications of failure to obey a lawful order by conducting illegal incentive training, addressing recruits in an unauthorized manner, and maltreatment of recruits. The record also contains an undated page 11 entry and an adverse FITREP which references the NJP; and documentation regarding her RFC based on the offenses of the NJP.

d. Advisory opinions from the HQMC Military Law Branch, Judge Advocate Division (JPL) and Manpower Information Quality Assurance, Manpower Information Systems Division (MIQ) state, in essence, that the page 11 entry did not contain the proper elements in accordance with regulations and failed to identify the date of counselling, and as such, a determination cannot be made as to whether an adequate opportunity was given to submit a rebuttal. The advisory opinions further state that because of the foregoing discrepancies on the page 11 entry, it should be permanently removed from the records. Nonetheless, the advisory opinions state that the NJP, FITREP, and RFC documentation should remain in the record since Petitioner was found guilty of the offenses of failure to obey a lawful order, did not appeal the NJP, and did not provide any evidence to substantiate an error or injustice in the FITREP or RFC documentation.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the HQMC advisory opinions, the Board concludes that Petitioner's request warrants partial favorable action. In this regard, the Board concludes that only the undated page 11 entry should be removed or totally 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 undated page 11 entry which references the NJP imposed on 18 June 2010, 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.

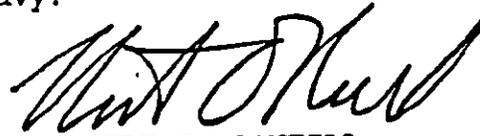
c. That no further relief be granted.

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