



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

TJR
Docket No: 3824-14
12 September 2014

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

Subj: [REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Service 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 record be corrected by removing derogatory material regarding a special court-martial (SPCM) offense of larceny of more than \$500. Enclosures (1) through (3) apply.

2. The Board, consisting of Messrs. Exnicios, Gattis, and Sproul, reviewed Petitioner's allegations of error and injustice on 3 September 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. Enclosure (1) was filed in a timely manner.

c. On 26 April 2013 Petitioner was convicted by SPCM of conspiracy, selling government property of a value more than \$500, and larceny of military property with a value of more than \$500.

d. Petitioner's defense counsel made a motion for a finding of not guilty with the respect to the language "of more than \$500" as reflected in the offenses "selling government property" and "larceny of military property." The military judge granted the motion and as such, the foregoing language, specifically, "of more than \$500," was to be removed from the offenses.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the SPCM military judge's order to delete the language referring to the value amount of the government and/or military property as reflected in the aforementioned offenses, the Board finds the existence of an error and injustice warranting corrective action. In this regard, the Board concludes that the language "of more than \$500," as described in the offenses for which Petitioner was found guilty of should be expunged from the record.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by redacting the 26 April 2013 SPCM wording "of more than \$500" from the offenses.

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

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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.



BRIAN J. GEORGE
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