



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

EC

TJR  
Docket No: 4494-14  
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) Petitioner'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 that his naval record be corrected by removing any and all derogatory material referencing an administrative separation from the Delayed Entry Program (DEP) due to a positive urinalysis. This request includes, but is not limited to any and all other references surrounding the circumstances of a positive urinalysis as reflected in his Official Military Personnel File (OMPF), Electronic Service Record (ESR), and the Marine Corps Total Force System (MCTFS), where applicable.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 13 January 2015 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. In addition, the board considered the advisory opinions (AO) furnished by Headquarters Marine Corps (HQMC), copies of which are attached to enclosures (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 documentation regarding being separated from the DEP on 1 October 2000, as a result of a positive urinalysis. The record also contains documentation which reflects that on 28 October 2000, he was granted a waiver for enlistment. In this regard, on 31 October 2000, Petitioner began a period of active duty and has served without disciplinary incident.

d. Advisory opinions received from the HQMC Military Personnel Law Branch (JPL) and Manpower Information Quality Assurance, Manpower Information Systems Division (MIQ) recommend relief regarding Petitioner's request to remove the pre-service documentation regarding separation from DEP due to a positive urinalysis. In this regard, the advisory opinions state, in part, that any documents referencing the separation from DEP are not relevant to Petitioner's history of service and reflect unfavorably on his mental, moral, or professional qualifications. The advisory opinions further state that this adverse material and/or documentation should be removed from the record.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board substantially concurs with the comments contained in the advisory opinions and concludes that since the documentation, as it appears in the record, is not only irrelevant, it also reflect unfavorably on Petitioner's service, and as such, all references should be removed from the record.

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 following documents and all references thereto:

(1) USMC 1ST Marine Corps District letter, 1910, PROC, dated 1 October 2000;

(2) Brooklyn Criminal Court police record check dated 28 August 2000; and

(3) Criminal Court of the City of New York, Certification of Disposition No. 57001 dated 29 August 2000.

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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.

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