



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

TJR  
Docket No: 4532-14  
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 the imposition of nonjudicial punishment (NJP) on 12 August 2011, for being absent from his appointed place of duty on 25 July 2011, and an administrative remarks (Page 11) entry dated 12 August 2011, which references the NJP. This request includes, but is not limited to any and all other references surrounding the circumstances of the NJP 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 (AOs) furnished 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.

TJR

Docket No: 4532-14

c. Petitioner received an NJP on 12 August 2011 for being absent from his appointed place of duty following a civil court appearance on 25 July 2011. The punishment imposed was extra duty and restriction for 14 days and a suspended forfeiture of pay. His record also contains a page 11 entry which reflects his counselling regarding the imposition of the NJP.

d. Petitioner's record contains documented evidence that on 25 July 2011, he not only appeared in civil court, but that upon his return from court, he attended his regularly recurring physical therapy appointment. He also provided evidence that his supervisor was aware of both his court appearance and physical therapy appointment for 25 July 2011. However, this evidence was somehow not presented and/or unavailable at the time the NJP was imposed.

e. Advisory opinions received from 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 NJP and Page 11 because Petitioner took all the necessary actions required regarding his whereabouts on 25 July 2011, and as such, the evidence which resulted in the NJP and Page 11 entry was insufficient and inaccurate. The advisory opinions also state, in part, that the NJP and Page 11 entry should be removed from the record since Petitioner provided substantial evidence that his absence from his appointed place of duty was authorized. As such, the NJP and Page 11 entry are incorrectly filed.

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 which resulted in the imposition of the NJP and page 11 entry is inaccurate as written, all references regarding them 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 NJP and the Page 11 entry, both dated 12 August 2011, and all references thereto.

TJR

Docket No: 4532-14

b. That Petitioner's naval record be corrected by removing all references to the punishment imposed at the 12 August 2011 NJP, and that all rights, privileges, and property affected by virtue of the NJP be restored.

c. 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