



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

TAL  
Docket No: 6631-14  
8 July 2015

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

Subj: REVIEW NAVAL RECORD OF [REDACTED] USMC  
[REDACTED]

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

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) MIQ memo dtd 10Feb15  
(4) CG ltr 5800 dtd 12Aug13  
(5) 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 the removal of all adverse material regarding the imposition of nonjudicial punishment (NJP) on 6 January 2013, from his Electronic Service Record (ESR). This request includes, but is not limited to the Administrative Remarks (Page 11) entry dated 7 January 2013.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 4 March 2015 and, pursuant to its regulations, determined that 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) furnished by Headquarters Marine Corps, Manpower Information Quality Assurance, dated 10 February 2015, a copy of which is attached in enclosure (3).

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

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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 6 January 2013 Petitioner received NJP for dereliction of duty, failure to obey a lawful order and drunken or reckless driving. The punishment imposed was a forfeiture of one half month pay for two months and restriction for 60 days. Although advised of his appeal rights, Petitioner did not appeal the NJP. Further, as a result of the foregoing NJP, Petitioner received a counseling entry (Page 11) dated 7 January 2013. Petitioner did not submit a rebuttal to the Page 11.

d. On 12 August 2013, the Commanding General (CG), U. S. Forces Central Command, set aside the Petitioner's NJP of 6 January 2013, enclosure (4).

e. The AO from MIQ, enclosure (3), recommends relief of Petitioner's request. The AO states, in part, that the Petitioner has met the burden to remove the document requested. A civilian came forward to state that she was in fact driving the vehicle on the night of the incident. The petitioner explained that he pled guilty to the charges at NJP because he wanted to protect the civilian. His conviction was set aside by the CG who imposed the punishment, and also directed that all documents related to the NJP be removed.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (3), the Board concludes that there is an error and injustice, so Petitioner's request warrants favorable action. In this regard, the Board substantially concurs with the comments contained in the AO furnished by MIQ and concludes that the Page 11 be removed because it was based solely on the imposition of the NJP.

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RECOMMENDATION:

a. That Petitioner's naval record be corrected by obliterating or removing the 7 January 2013 Page 11 entry.

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.

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.

5 U.S.C 552(b) (6)

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.

5 U.S.C 552(b) (6)

ROBERT J. O'NEILL  
Executive Director