



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

TJR  
Docket No: 8306-14  
8 May 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 her naval record be corrected by removing any and all derogatory material referencing the imposition of nonjudicial punishment (NJP) on 3 September 2009, and two administrative remarks (Page 11) entries dated 13 August and 3 September 2009, respectively. This request includes, but is not limited to any and all other references surrounding the circumstances the NJP and Page 11 entries, as reflected in her 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 29 April 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 a Page 11 entry dated 13 August 2009, which reflects that she was eligible, but not recommended for promotion due to pending legal action.

d. In accordance with the foregoing, Petitioner's record contains a unit punishment book entry which notes the imposition of NJP on 3 September 2009, for disobeying a lawful order by consuming alcohol and operating a vehicle, and operating a vehicle while under the influence of alcohol. The punishment imposed was reduction to paygrade E-1, a \$646 forfeiture of pay, and restriction for 45 days. A portion of the punishment was suspended for six months.

e. As a result of the foregoing NJP, Petitioner's record also contains a Page 11 entry dated 3 September 2009, which reflects recommendations for corrective action.

f. Two 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 derogatory material from her record because these documents could not be upheld as valid exercises of command authority. In other words, the commanding officer who imposed the NJP and directed the inclusion of the Page 11 entries in her record, was not authorized to do so. The advisory opinions also imply that since Petitioner was not found guilty in civil court of the offense for which the NJP was imposed, it is not valid. Finally, the advisory opinions 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 erroneous and unjust, and reflects unfavorably on Petitioner's service, 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 totally obliterating or removing the NJP and/or unit punishment book entry of 3 September 2009, and the Page 11 entries dated 13 August and 3 September 2009, and all other 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.

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