



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

BJG
Docket No: 8328-14
16 September 2014

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 13 Aug 13 w/attachments
(2) HQMC JAM2 memo dtd 18 Feb 14
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected by removal of the nonjudicial punishment (NJP) of 21 November 2011 (copy of Unit Punishment Book (UPB) entry at Tab A to enclosure (1)). He further requested, by implication, removal of the fitness report for 14 October to 22 November 2011 (copy at Tab B to enclosure (1)). Finally, by implication, he requested removal of two service record page 11 ("Administrative Remarks (1070)") entries dated 23 November 2011 (copy at Tab C to enclosure (1)). All of the contested documents refer to the NJP.

2. The Board, consisting of Messrs. Exnicios, Grover, and Ivins, reviewed Petitioner's allegations of error and injustice on 10 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 the Board, Petitioner exhausted all administrative remedies which were available under existing law and regulations within the Department of the Navy.

b. In enclosure (2), the Headquarters Marine Corps office with cognizance over NJP's has commented to the effect that Petitioner's request to remove it has merit and warrants corrective action. The advisory opinion bases its rationale on the fact that the NJP was based totally on his self-reporting of his driving under the influence of alcohol offense.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (2), the Board finds an error warranting relief. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the NJP of 21 November 2011.

b. That Petitioner's naval record be further corrected by removing therefrom the following fitness report and related material:

Date of Report	Reporting Senior	Period of Report	
		From	To
23 Dec 11		14 Oct 11	22 Nov 11

c. That there be inserted in Petitioner's naval record a memorandum in place of the removed report containing appropriate data concerning the report; that the memorandum state that the report has been removed by the order of the Secretary of the Navy in accordance with the provisions of federal law and may not be made available to selection boards and other reviewing authorities; and that such board's may not conjecture or draw any inference as to the nature of the report.

d. That Petitioner's record be further corrected by removing the two service record page 11 ("Administrative Remarks (1070)") entries dated 23 November 2011. This is to be accomplished by physically removing the page 11 on which the entries appear, or completely obliterating the entries so they cannot be read, rather than merely lining through them.

e. 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.

f. 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 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 Regulations, 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