



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

TJR  
Docket No: 8499-14  
13 April 2015

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]  
USN, XXX-XX-[REDACTED]

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

Encl: (1) DD Form 149 with attachments  
(2) Case summary with attachments  
(3) Subject's naval record/CD

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Navy, filed enclosure (1) with this Board requesting that his naval record be corrected by removing derogatory material, specifically, an offense of "assault consummated by battery." This request includes, but is not limited to, removal of all references to the offense from his Official Military Personnel File (OMPF), the Marine Corps Total Force System (MCTFS), and his Electronic Service Record (ESR). Enclosures (2) and (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 17 March 2015, and pursuant to its regulations, determined that the partial 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 letter from Commanding officer, Strike Fighter Squadron 14 (VFA-14) dated 9 February 2014, a copy of which is 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.

c. Petitioner provided, with his application, a Report and Disposition of Offense(s) document which reflects that on 17 February 2013, he was being referred for captain's mast for violations of UCMJ Art. 117/provoking speeches or gestures and Art. 128/assault consummated by battery. The document has been edited to reflect a pen and/or ink change with the word "DISMISSED" written across the violation of Art. 128/assault consummated by battery.

d. Petitioner's record contains a Court Memorandum which reflects that on 24 February 2013, he received nonjudicial punishment (NJP) for making provoking speeches or gestures and assault - assault consummated by battery.

e. In a letter from VFA-14, the commanding officer (former executive officer) states, in part, that the charge of Article 128/assault, was dismissed by the former commanding officer who imposed the NJP, and as such request that it be removed from Petitioner's record.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the letter from VFA-14, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board concludes that all references in his record regarding violation of Article 128/assault consummated by battery, should be removed or obliterated.

In view of the foregoing, the Board finds the existence of an error or injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by totally obliterating or removing the verbiage "Art 128, assault consummated by batter" and all 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.

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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