



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 04869-01
16 October 2001

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

Subj: CAPT [REDACTED] USN, [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 12 Jun 01 w/attachments
(2) PERS-834C memo dtd 28 Aug 01
(3) Subject's naval record

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing the Assistant Commander, Navy Personnel Command (NPC-4) letter 1611 of 20 October 1998, Subject: Final Civil Action Report ICO (in case of) Petitioner and Petitioner's letter 1611 dated 2 December 1998, Subject: Statement Concerning Filing of Adverse Matter in Official Service Record. Copies of these documents are at Tab A.

2. The Board, consisting of Messrs. Carlsen and Caron and Ms. Suiter, reviewed Petitioner's allegations of error and injustice on 12 October 2001, 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 this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the Navy Personnel Command office having cognizance over the subject matter of this case has commented to the effect that Petitioner's request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (2), the Board finds an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing therefrom the following:

(1) Assistant Commander, Navy Personnel Command (NPC-4) letter 1611 dated 20 October 1998, Subject: Final Civil Action Report ICO Petitioner and


(2) Petitioner's letter 1611 dated 2 December 1998, Subject: Statement Concerning Filing of Adverse Matter in Official Service Record.

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.

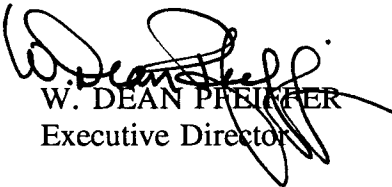
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting 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.


W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1611
PERS 834C/462
28 Aug 01

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: CAP [REDACTED], USN [REDACTED]

Ref: (a) SECNAVINST 5300.29A

Encl: (1) BCNR File

1. Enclosure (1) is returned for your action. PERS-83 has reviewed the contents of Enclosure (1) and determined that CA [REDACTED] petition to remove a civil conviction from his record should be granted.

2. Filing of substantiated driving under the influence (DUI) conviction is required by Reference (a). A substantiated DUI requires adjudication by military or civil authorities that the member violated Article 111 of the Uniform Code of Military Justice, or a civil conviction for driving under the influence.

3. A thorough review of the record, including local records maintained at PERS-834, revealed that, while there was information to imply CA [REDACTED] had been under the influence of alcohol at the time of the incident, there was neither a formal record nor adjudication by civil or military authorities that he had engaged in a substantiated DUI incident.

4. For all the above reasons, [REDACTED] petition should be granted.

[REDACTED]

Director, Personnel Progression
Performance and Security Division