



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

BJG
Docket No: 5158-01
3 April 2002

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

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

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

Encl: (1) DD Form 149 dtd 25 Jun 01 less attachments
(2) HQMC MIFD memo dtd 10 Aug 01
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing two Police Record Checks (DD (Department of Defense) Forms 369), each dated 10 March 1996; a County of Erie District Attorney letter dated 18 March 1996; two receipts from the Town of Evans Justice Court, dated 11 and 18 March 1996; and a handwritten addendum to the Questionnaire for National Security Positions (SF (Standard Form) 86). Copies of these documents are at Tabs A through D, respectively.

2. The Board, consisting of Messrs. Morgan and Zsalmán and Ms. Nofziger, reviewed Petitioner's allegations of error and injustice on 27 March 2002, and pursuant to its regulations, determined that the limited 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. Petitioner contends that the documents at issue should be removed because they pertain to matters that occurred before he joined the Marine Corps. The documents do pertain to matters that occurred before he entered the Marine Corps on 19 March 1996.

c. Although not specifically addressed in Petitioner's application, his record also includes receipts from the Hamburg Town Court dated 26 July 1996 and the Town of Evans Justice Court dated 19 August 1996. These appear at Tab E.

d. In correspondence attached as enclosure (2), the Headquarters Marine Corps office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request warrants limited favorable action. The advisory opinion recommended removing all the contested material, except the handwritten addendum, stating that this material is not authorized for inclusion in the Official Military Personnel File. They stated that the handwritten addendum is an authorized document relating to the Questionnaire for National Security Positions (SF 86).

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an error warranting approval of Petitioner's request, except as it relates to the handwritten addendum, and removal of the receipts at Tab E.

The Board agrees with the advisory opinion in concluding that all the contested material, except the handwritten addendum, should be removed. They conclude that in the interest of completely correcting the error in this case, the receipts at Tab E should be removed along with the expressly contested receipts at Tab C. They find that while the addendum does pertain to matters that occurred before Petitioner enlisted in the Marine Corps, it is properly included in his record.

In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

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

- (1) Two Police Record Checks (DD Forms 369), dtd 10 Mar 96 (S fiche, row C, frames 9 and 10).
- (2) County of Erie District Attorney ltr dtd 18 Mar 96 (S fiche, row C, frame 8).
- (3) Two receipts from Town of Evans Justice Court, dtd 11 and 18 Mar 96 (S fiche, row C, frame 7).
- (4) Receipts from Hamburg Town Court dtd 26 Jul 96 and Town of Evans Justice Court dtd 19 Aug 96 (S fiche, row C, frame 13).


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.


d. That the remainder of Petitioner's request be denied.

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.


FOR W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

5158-01

IN REPLY REFER TO:
1070
MIFD
10 AUG 1991

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF SERGEANT J [REDACTED]
[REDACTED] USMC

1. Sergeant [REDACTED]'s application with supporting documents has been reviewed concerning his request for removal of extraneous material from his official military personnel files (OMPF).

2. MCO 1070.14, Official Military Personnel Files (OMPF) Contents, sets forth guidance and provides information on the contents of the OMPF in use at Headquarters, U. S. Marine Corps and the policies and procedures for forwarding documents authorized for inclusion in the OMPF. Limitations exist regarding the types of documents authorized for inclusion in the OMPF.

3. MCO P1100.72, Military Personnel Procurement Manual, Volume 2, Enlisted Procurement (MPPM ENLPROC) sets forth guidance and provides information on the completion, disposition, and distribution of source documents used for verification by Marine Corps recruiters when an applicant applies for initial enlistment into the Marine Corps.

4. The following comments/opinions concerning the extraneous material on file in his OMPF are provided:

a. Documents enclosed in Sergeant [REDACTED]'s application are pre-enlistment forms identified in the MPPM ENLPROC.

b. Distribution of these forms are as follows per the MPPM ENLPROC:

(1) An original copy of the Police Record Check (DD Form 369), the District Attorney of Erie County letter dated March 18, 1996, and the receipts from the Town of Evans Justice Court are maintained by the recruiting station for the duration of Sergeant [REDACTED] initial enlistment and are not authorized documents to be included in Sergeant [REDACTED] OMPF per MCO 1070.14 and the MPPM ENLPROC.

(2) The hand written addendum with the title line of "#23 Con't [REDACTED] Joseph D. 123 72 1580" is an additional page to the Questionnaire for National Security Positions (Standard Form 86), an authorized document for inclusion in Sergeant [REDACTED] OMPF per MCO 1070.14 and the MPPM ENLPROC.

Subj: BCNR APPLICATION IN THE CASE OF SERGEANT [REDACTED]
[REDACTED] JSMC

5. In view of the above, it is recommended that:

a. The Board for Correction of Naval Records provide partial relief and approve Sergeant [REDACTED] request to remove the Police Record Checks (DD Form 369), the District Attorney of Erie County letter dated March 18, 1996, and the receipts from the Town of Evans Justice Court from his OMPF.

b. If the Board for Correction of Naval Records finds that Sergeant [REDACTED] records are in error or an injustice was committed, approve the removal of extraneous material from his OMPF.

6. Point of contact is [REDACTED] at DSN [REDACTED]

[REDACTED]

Director
Manpower Management Information
Systems Division