



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

BJG
Docket No: 9803-09
16 September 2010

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) Subject's DD Form 149 dtd 18 Aug 09 w/attachments
(2) HQMC JAM3 memo dtd 25 Aug 10
(3) 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, in effect, that the applicable naval record be corrected by adjusting the date of rank and effective date of his promotion to sergeant from 1 March 2006 to 1 August 2003.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED] reviewed allegations of error and injustice on 14 September 2010, 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 which were available under existing law and regulations within the Department of the Navy.

b. In enclosure (2), the Headquarters Marine Corps Military Law Branch, Judge Advocate Division, has commented to the effect that Petitioner's request has merit and warrants favorable action. This advisory states that although he was reduced to corporal as a result of a special court-martial, the

reduction was suspended for a period of one year and was never vacated, so he was technically never reduced.

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 and injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be to show his date of rank and effective date in the grade of sergeant as 1 August 2003, vice 1 March 2006.

b. That any material or entries inconsistent with 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.

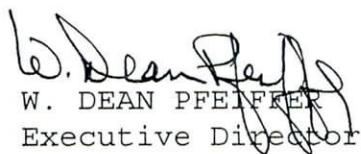
c. That any material directed to be remove Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of his record.

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


BRIAN J. GEORGE
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