



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

SJN
Docket No: 13817-10
28 February 2011

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

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

1. Pursuant to the provisions of reference (a), Petitioner, an active duty Marine Corps Officer, filed enclosure (1) with this Board requesting that all derogatory material associated with his nonpunitive letter of caution (NPLOC) be removed from his Official Military Personnel File (OMPF).

2. The Board, consisting of Mr. Hedrick, Ms. Guill, and Ms. Siler, reviewed Petitioner's allegations of error and injustice on 23 February 2011 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. Petitioner along with eight fellow students were investigated for cheating on a take-home expeditionary operations examination. All nine faced nonjudicial punishment (NJP) on 3 July 2002. The commanding officer found that NJP was not warranted in Petitioner's case, but gave him a NPLOC. In his application, Petitioner states, in part, that Navy directives state that a NPLOC is a personal matter between the member and the superior who issued it.

c. A previous advisory opinion from the Staff Judge Advocate to the Commandant of the Marine Corps recommended relief in such a case, stating, in part, that a NPLOC is not considered punishment. In this case, Petitioner did not technically receive an NJP, and there should be no reference to the fact that a NPLOC was issued in his OMPF.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of an advisory opinion from the Staff Judge Advocate, the Board concludes that Petitioner's request warrants full relief and that all derogatory material associated with his NPLOC be removed from his OMPF.

RECOMMENDATION:

a. That all derogatory material associated with Petitioner's NPLOC be removed from his OMPF. Specifically, Headquarters Marine Corps Routing Sheet (5211) dated 25 March 2003 and all attachments.

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 direct to be removed from Petitioner's naval record be returned to this 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


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 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.


W. DEAN PFEIFFER
Executive Director