



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

TJR
Docket No: 2543-13
9 May 2013

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

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

Ref: (a) 10 U.S.C. 1552
(b) MILPERSMAN 1626-020
(c) MILPERSMAN 1070-320

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 enlisted member of the United States Navy Reserve, filed enclosure (1) with this Board requesting that his naval record be corrected by removing all references to the proposed nonjudicial punishment (NJP) dated 16 February 2011, to include but not be limited to any and all administrative remarks (Page 13) entries.

2. The Board, consisting of Ms. Barrow, Mr. Blanchard, and Ms. Wilcher, reviewed Petitioner's allegations of error and injustice on 7 May 2013 and, pursuant to its regulations, a majority 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. Enclosures (2) and (3) apply.

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's record contains a Report and Disposition of Offense(s)/Unit Punishment Book (UPB) entry dated 2 February 2011 which notes that he was suspected of making a false official statement on or about 30 October 2010 as evidenced by his intent to deceive by signing an official document regarding 10 days of leave which was to be taken in the Continental United States (CONUS) but was taken outside of CONUS.

d. On 16 February 2011 Petitioner's commanding officer, after review of the evidence of record, found that he was not guilty of the offense of making a false official statement and dismissed the NJP.

e. Petitioner's record also contains a Page 13 entry which references the foregoing proceedings in an administrative counselling and/or warning for violation of Article 107 of the Uniformed Code of Military Justice (UCMJ), which resulted in NJP held on 16 February 2011.

f. Navy regulatory guidelines state, in part, that when an NJP is dismissed, entries in a service record are not required or authorized, and that any such entries should be removed from the Navy Enlisted (Field) Service Record (FSR). References (b) and apply.

CONCLUSION:

Upon review and consideration of all the evidence or record, the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner's commanding officer dismissed the 16 February 2011 NJP and further notes the regulatory guidelines provided in references (a) and (b) which outlines the filing and/or removing of documentation regarding such actions. In this regard, the Board concludes that the records should be purged of all references regarding the NJP.

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

RECOMMENDATION:

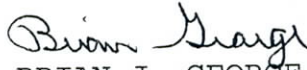
a. That Petitioner's naval record be corrected by totally obliterating the Page 13 entry dated 20 February 2011 from any and all official records.

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.

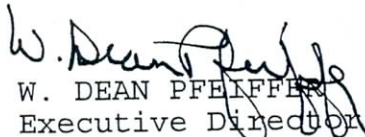
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross-reference being made a part of Petitioner's naval record.

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


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