



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

[REDACTED]
Docket No: 1597-16
DEC 12 2016

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] USMC,
XXX-XX-[REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) Administrative Remarks (Page 11) entry and rebuttal dated 17 May 2011

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that his 6105 retention warning dated 17 May 2011 be removed from his official military personnel file (OMPF). He impliedly requested that his rebuttal statement also be removed from his record. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 4 November 2016, 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. Although enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner and his wife moved into an apartment complex in March 2011. They noticed that they had a problem with the door of their detached garage being opened by unknown means and reported it to management, who advised them that they would "look into the problem." Petitioner reported to local police that on 23 April 2011, he and his wife noticed that their garage door was down and secure at approximately 1300 hours, and that they did not use the garage at any time or give anyone permission to go into their garage to remove any items. On

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24 April 2011, they noticed that their garage door was open. Upon closer inspection, they discovered that three locked footlockers containing military gear worth approximately \$8781 was missing. As a result of the burglary, Petitioner was issued an Administrative Remarks (Page 11) entry dated 17 May 2011. He was counseled and notified of his deficiencies for failure to maintain government issued gear, and advised of recommended corrective action. Specifically, to not lose government issued gear, to obey all orders and regulations, and to uphold the values and principles of the Uniform Code of Military Justice and the U.S. Marine Corps. He was also notified of available assistance through his chain of command. Finally, he was warned that failure to adhere to the counseling/warning may be grounds for administrative separation action. In response to the retention warning, Petitioner elected to submit a rebuttal statement explaining the circumstances regarding the theft of his military gear.

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record, the majority, [REDACTED] concluded that Petitioner's request warrants relief. In this regard, the majority believes that Petitioner reasonably safeguarded his military gear by placing it in a secure garage, and that the gear was stolen, not lost, as stated in the retention warning.

MAJORITY RECOMMENDATION:

That Petitioner's naval record be corrected by removing the 6105 retention warning and corresponding rebuttal statement, both dated 17 May 2011.

MINORITY CONCLUSION:

In reaching her conclusion, the minority member, [REDACTED] noted that Petitioner was aware that he had a problem at the apartment complex with his garage door being opened by unknown means, and concluded that he did not properly safeguard his military gear.

MINORITY RECOMMENDATION:

That Petitioner's request be denied.

5. 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.

[REDACTED]
Recorder

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6. The foregoing action of the Board is submitted for your review and action.

[REDACTED]

Executive Director

Majority recommendation reviewed and approved [REDACTED]

Minority recommendation reviewed and approved [REDACTED]

[REDACTED]

1/19/17