



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

[REDACTED]
Docket No: 2132-16
19 April 2016

From: Chairman, Board for Correction of Naval Records
To: Commandant of the Marine Corps (MMER)

Subj: REVIEW 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) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his record be corrected by removing an Administrative Remarks (Page 11) counseling dated 18 February 2015, regarding wrongful drug use, from his Official Military Personnel File (OMPF).

2. The Board, consisting of Messrs. Grover, Fitzgerald, and Herold, reviewed Petitioner's allegations of error and injustice on 12 April 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. On 18 February 2015, a Page 11 entry was placed in Petitioner's OMPF regarding wrongful drug use. Specifically, the unauthorized use of prescription hydrocodone and hydromorphone.

c. On 25 August 2015, Petitioner appeared before a special court-martial (SPCM) for the wrongful use of hydrocodone and hydromorphone. He pled and was found not guilty of the charge and specification thereunder.

d. On 28 December 2015, Petitioner submitted a request to the Board for removal of the Page 11. On 21 January 2016, Petitioner's commanding officer (CO) endorsed his request to have the Page 11 removed from his OMPF stating, in part, that he was subsequently found not guilty at a SPCM, that no further action has occurred, and that the Page 11 entry should be removed from Petitioner's OMPF.

e. Marine Corps directives specifically state, in part, that entries are not to be made in an OMPF concerning court-martial proceedings if the final results do not result in a punitive discharge. Petitioner was referred to a SPCM that ultimately found him not guilty.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of Petitioner's CO's endorsement, the Board concludes that Petitioner's request warrants relief. The Board concurs that the Page 11 entry dated 18 February 2015, related to wrongful drug use should be removed from Petitioner's OMPF.

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 removing the Page 11 entry dated 18 February 2015, regarding wrongful drug use from his OMPF.

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.


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.


Recorder


Docket No: 2132-16

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.

APR 25 2016


Executive Director