



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

[REDACTED]
Docket No: 8061-16
DEC 07 2017

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

Subj: REVIEW OF NAVAL RECORD IC [REDACTED]
XXX XX [REDACTED] USMCR

Ref: (a) 10 U.S.C. §1552

Encl: (1) DD Form 149
(2) HQMC memo 1070 JPL of 12 Dec 16

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the Marine Corps, filed enclosure (1) with this Board requesting removal of a Unit Punishment Book (UPB) entry, Punitive Letter of Reprimand (PLOR) and corresponding statement, Administrative Remarks (Page 11) counseling entry and corresponding rebuttal statement, and the adverse fitness report for the reporting period 1 November 2015 to 26 April 2016 ("contested FITREP").
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 September 2017 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, relevant portions of Petitioner's 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. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.
 - c. Petitioner received a Page 11 counseling entry for dereliction of duty on 10 March 2016. He submitted a rebuttal statement in which he accepted responsibility for the losses but denied he had been negligent or derelict in his duties.
 - d. Petitioner received nonjudicial punishment (NJP) on 26 April 2016 and was awarded a PLOR. He did not appeal the NJP or PLOR, but he did submit a statement in which he expressly accepted responsibility for the missing gear and equipment. His Commanding General

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documented Petitioner's NJP in a Report of NJP, recommending Petitioner not be required to show cause for retention in the Marine Corps. On 15 July 2016, Commander, Marine Forces Command (COMMARFORCOM), the show cause authority, set aside Petitioner's NJP, unsubstantiated Petitioner's misconduct, and closed the case.

e. Petitioner was issued the contested FITREP, acknowledging the adverse nature of the report, and submitted a statement accepting full responsibility.

f. Neither the Report of NJP nor the PLOR were entered into Petitioner's official military personnel file (OMPF). See enclosure (2).

g. A UPB form is only used to record the imposition of NJP on enlisted Marines, not officers. See enclosure (2).

h. The Performance Evaluation Review Board (PERB) removed the contested FITREP from Petitioner's OMPF.

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 injustice warranting the following corrective action.

The Board finds that, due to the NJP set aside and COMMARFORCOM's finding of no negligence or dereliction of duty, Petitioner has provided substantial evidence demonstrating the existence of a material error and injustice warranting removal of the requested documents. The Board noted the only remaining documentation at issue is the Page 11 counseling entry dated 10 March 2016, and corresponding rebuttal statement.

RECOMMENDATION

Petitioner's naval record be corrected by removing the Page 11 entry dated 10 March 2016 and the corresponding rebuttal statement.

4. 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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
XXX XX [REDACTED] USMCR

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.

[REDACTED]
Executive Director