



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

[REDACTED]
Docket No: 8397-16
JUN 05 2017

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

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

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

Encl: (1) DD Form 149 with attachments
(2) Subject's naval record (excerpts)
(3) NAVMC 118(11) dtd 15 Jul 16
(4) Petitioner's rebuttal statement dtd 20 Jul 16
(5) [REDACTED] Co. Dismissal Notice of Reinstatement dtd 16 Aug 16
(6) Sworn Statement Affidavit dtd 9 Sep 16

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting to remove Administrative Remarks (Page 11) dated 15 July 2016 from his Official Military Personnel File (OMPF).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 17 March 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 enclosures (1) through (6), 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. Enclosure (1) was filed in a timely manner.

c. Petitioner erroneously received a Page 11 dated 15 July 2016 per enclosure (3), for restricting, delaying and obstructing a law enforcement officer on 5 June 2016, and for failure to inform his chain of command of the incident.

d. Petitioner provided a rebuttal statement to the Page 11 dated 15 July 2016 per enclosure (4). The Petitioner stated, in part, that he was executing his constitutional rights by not allowing law enforcement officials to enter his property without a warrant. The Petitioner stated he informed and reported the incident to his chain of command via the Platoon Sergeant.

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e. Petitioner received a dismissal notice of reinstatement letter from [REDACTED] County District Court of Justice which dismissed charges of resisting a public officer per enclosure (5).

f. Petitioner's Platoon Sergeant provided a sworn statement affidavit indicating, he was informed by the Petitioner regarding the incident with law enforcement that took place on 5 June 2016 per enclosure (6).

CONCLUSION:

Upon review and consideration of all the evidence of record, and in light of enclosures (5) and (6), the Board concluded that Petitioner's request warrants relief in the form of removing the Page 11 entry dated 15 July 2016.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

Petitioner's naval record be corrected by removing the Page 11 entry dated 15 July 2016 from his OMPF.

All duplications of the Page 11 relating to the topic in dispute be removed from the Petitioner's OMPF.

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

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