



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JSR  
Docket No. 09931-07  
10 January 2008

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

**[REDACTED]**  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 25 Feb 07 w/attachment  
(2) HQMC PERB memo dtd 29 Oct07  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that the applicable naval record be corrected by modifying the fitness report for 22 June to 30 September 2006, in accordance with the reporting senior's letter of 22 February 2007 (copy in enclosure (1)), by raising the marks in sections E.1 ("Courage") and E.2 ("Effectiveness under Stress") from "H" (not observed) to "C" (fifth best of seven possible marks) and F.1 ("Leading Subordinates"), F.2 ("Developing Subordinates") and F.4 ("Ensuring Well-being of Subordinates") from "H" to "D" (fourth best). A copy of the fitness report in question is at Tab A.

2. The Board, consisting of Ms. Humberd and Messrs. Boyd and Neuschafer, reviewed Petitioner's allegations of error and injustice on 10 January 2008, 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 which were available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. The reporting senior's letter explained that when he submitted the contested original marks of "H," he was under the mistaken impression that he had to assign that mark in those areas where he had had no direct observation of Petitioner's performance.

d. Enclosure (2) is the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) in Petitioner's case. The report reflects the PERB decision to deny Petitioner's request, as the reporting senior's letter "does not adequately substantiate changes" to the fitness report in question. The PERB added that "more evidence, specifically, input from the reviewing officer, would make this case much stronger, and likely eligible for reconsideration."

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding the contents of enclosure (2), the Board finds an injustice warranting the requested relief. The reporting senior's letter convinces the Board that he misunderstood when a mark of "H" was required. Accordingly, the Board recommends the following corrective action:

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying as follows the fitness report for 22 June to 30 September 2006, dated 4 December 2006 and signed by [REDACTED]

(1) Sections E.1 and E.2: Change from "H" to "C."

(2) Sections F.1, F.2 and F.4: Change from "H" to "D."

b. That the magnetic tape maintained by Headquarters Marine Corps be corrected accordingly.

c. 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.

d. That any material directed to be removed from Petitioner's naval record be returned to this 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. 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

*Jonathan S. Ruskin*  
JONATHAN S. RUSKIN  
Acting Recorder

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

*W. Dean Pfeiffer*  
W. DEAN PFEIFFER

Reviewed and approved:

*Robert T. Cole*  
1-23-08

JUN 25 2008