



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

BJG
Docket No: 12164-08
22 May 2009

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 7 Oct 08 w/attachment
(2) HQMC MMER/PERB memo dtd 15 Dec 08
(3) HQMC MIO memo dtd 14 Jan 09 w/encl
and e-mail dtd 23 Mar 09
(4) Subject's ltr dtd 10 Feb 09
(5) HQMC MIO memo dtd 9 Apr 09 w/encl
(6) Subj'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 that his naval record be corrected by removing the fitness report for 1 November 2004 to 31 May 2005 (copy at Tab A) and modifying his Marine Corps Total Force System (MCTFS) data by deleting the weight control entries for 8 February 1997 to 22 March 2000 and 1 March to 25 July 2005 (copy at Tab B). He also impliedly requested removing the service record page 11 ("Administrative Remarks (1070)") entries dated 28 July 1998, 15 June 2000, 22 June 2000, 18 March 2005, 6 April 2005 and the undated entry reflecting the recommendation against promotion to sergeant for the January 2001 promotion period. Copies of the page 11's on which these entries appear are at Tab C.

2. The Board, consisting of Messrs. W. Hicks, Spooner and Swarens, reviewed allegations of error and injustice on 21 May 2009, and pursuant to its regulations, determined that limited relief should be granted. 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. In enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board commented to the effect that the contested fitness report should stand.

c. In enclosure (3), the HQMC Manpower Information Operations, Manpower Management Information Systems Division (MIO) commented to the effect that the weight control entry for 8 February 1997 to 22 March 2000 should be deleted, but the entry for 1 March to 25 July 2005 should stand.

d. In enclosure (4), Petitioner asserts he was not out of weight standards when placed on weight control for the period 1 March to 25 July 2005, and that he was erroneously measured by a clerk who was not authorized to measure him. In his original application, he says that according to one of the impliedly contested service record page 11 entries, "...on 06 [sic] 0406 [entry actually dated 6 April 2005], the command made an entry/amendment concerning the MRO [Marine reported on] assignment to the BCP [Body Composition Program]. It states it was inconsistencies [sic] with the program and did not decide to process it." He objects that "Since the entry has been made there has been no correction on the MRO's OMPF [Official Military Personnel File] and MCTFS account."

e. In enclosure (5), the HQMC MIO commented to the effect the page 11 entries dated 28 July 1998, 15 June 2000, 22 June 2000 and 6 April 2005 should be removed, but the entry dated 18 March 2005 and the undated entry reflecting the recommendation against promotion to sergeant for the January 2001 promotion period should stand.

f. The page 11 on which the impliedly contested page 11 entries dated 28 July 1998, 15 June 2000 and 22 June 2000 appear also includes uncontested entries.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosures (3) and (5), the Board finds the existence of an error and injustice warranting partial relief, specifically, removal of the weight control entry for 8 February 1997 to 22 March 2000 and the page 11 entries dated 28 July 1998, 15 June 2000, 22 June 2000 and 6 April 2005.

The Board substantially concurs with enclosure (2) in concluding that the contested fitness report should stand, and enclosures (3) and (5) in concluding that the weight control entry for 1 March to 25 July 2005, the page 11 entry dated 18 March 2005 and the undated page 11 entry reflecting the recommendation against promotion to sergeant for the January 2001 promotion period should stand as well. Specifically concerning the weight control entry for 11 March to 25 July 2005, the Board was unable to find Petitioner was not out of weight standards when he was placed on weight control for that period, and the Board was likewise unable to find he was erroneously measured by a clerk who was not authorized to measure him.

In view of the above, the Board directs the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying the MCTFS data by deleting the weight control entry for 8 February 1997 to 22 March 2000.

b. That his record be corrected further by removing the service record page 11 ("Administrative Remarks (1070)") entries dated 28 July 1998, 15 June 2000 and 22 June 2000. This is to be accomplished by reconstructing the page 11 on which these entries appear, or completely obliterating the entries so they cannot be read, rather than merely lining through the entries.

c. That his record be corrected further by removing the page 11 entry dated 6 April 2005. This is to be accomplished by physically removing the page 11 on which the entry appears, or completely obliterating the entry so it cannot be read, rather than merely lining through the entry.

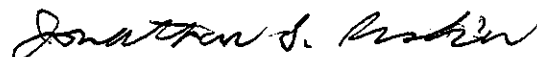
d. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

e. That any material directed to be removed from Petitioner's naval record be returned to the 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.


f. That the remainder of Petitioner's request be denied.

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.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting 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 Regulations, 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.


W. DEAN PFEIFFER
Executive Director