



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

CRS
Docket No: 4047-10
6 July 2010

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
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner applied to this Board requesting, in effect, that his naval record be corrected to show that he was not reduced in rank to sergeant, E-5.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 9 June 2010 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. Petitioner enlisted in the Marine Corps on 29 August 1994. On 7 August 2006 he received nonjudicial punishment for failing to obey a lawful order. The punishment consisted of forfeiture of \$1342.00 per month for two months, with one month suspended. On 23 March 2007 he was convicted by a summary court-martial of drunk driving. The court sentenced him to forfeit \$500.00 pay, a reprimand, and reduction in rank to sergeant, E-5.

c. Petitioner contends that he should be restored to E-6 because the sentence imposed by the summary court-martial was excessive.

CONCLUSION:

Upon review and consideration of all the evidence of record the

Board concludes that Petitioner's request warrants favorable action. The Board notes Petitioner's outstanding record as a Marine and the laudatory references that accompanied his application. The Board concludes that his record should be corrected to show that the summary convening authority, as a matter of clemency, disapproved that portion of the sentence of the summary court-martial as pertains to reduction in rank.

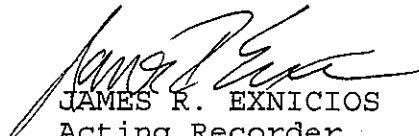
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that the summary court-martial convening authority disapproved so much of the sentence adjudged by a summary court-martial in his case on 23 March 2007 as provided for reduction in rank to sergeant, E-5.


b. That no further relief be granted.

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


JAMES R. EXNICIOS
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