



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

JSR  
Docket No. 4627-10  
1 July 2010

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

Subj: [REDACTED]  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 28 Oct 09 w/attachments  
(2) HQMC MMER/PERB memo dtd 22 Jan 10  
(3) HQMC MIO memo dtd 27 Apr 10  
(4) HQMC MMER e-mail dtd 4 May 10  
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the fitness report for 1 October 2007 to 2 May 2008, a copy of which is at Tab A. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removing this report. Petitioner further requested removing the service record page 11c ("Administrative Remarks (1070)") entries dated 5 February and 4 March 2008. A copy of the page 11c on which these entries appear is at Tab B.

2. The Board, consisting of Messrs. Grover, Ivins and McBride, reviewed Petitioner's allegations of error and injustice on 1 July 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. The contested page 11c entry dated 5 February 2008 counseled Petitioner for poor judgment as a staff noncommissioned officer in front of junior Marines. Petitioner feels this conduct did not warrant a page 11 entry. Both contested entries appear on the same page 11c.

c. In correspondence attached as enclosure (3), the HQMC office having cognizance over page 11 entries has commented to the effect that the contested entry dated 4 March 2008 should be removed, as the commander did not sign it as required, but that the entry dated 5 February 2008 should stand.

d. Enclosure (4) reflects the basis for the PERB decision to direct removing the contested fitness report.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an error warranting partial relief, specifically, removal of the contested page 11c entry dated 4 March 2008. The Board is unable to find the entry dated 5 February 2008 was unduly harsh for the conduct concerned. In view of the above, the Board directs the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the service record page 11c ("Administrative Remarks (1070)") entry dated 4 March 2008. This is to be accomplished by reconstructing the page 11c on which the entry appears, or completely obliterating the entry so it cannot be read, rather than merely lining through it.

b. 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.

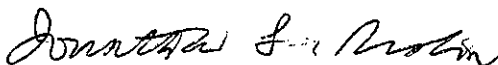
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a

confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.


d. 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