



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

BJG
Docket No: 9950-10
30 September 2010

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

Subj: [REDACTED]

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

Encl: (1) DD Form 149 dtd 27 Jan 10 w/attachment
(2) HQMC MMER/PERB memo dtd 26 Jul 10
(3) HQMC JAM1 memo dtd 21 May 10
(4) HQMC MIO memo dtd 23 Aug 10
(5) 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, in effect, that his naval record be corrected by removing the fitness report for 2 January to 30 July 2008 (copy at Tab A). As shown in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed removing this report. Petitioner further requested removing the three service record page 11 ("Administrative Remarks (1070)") counseling entries, each dated 20 June 2008, and his rebuttals, each dated 24 June 2008. The entries concern an inappropriate relationship, disobeying a lawful order or regulation by storing sexually explicit material on a Government computer, and disobeying a lawful order or regulation by misusing a Government cellular telephone, respectively. Copies of the page 11 entries and rebuttals are at Tab B.

2. The Board, consisting of Messrs. Geberth, McBride and Pfeiffer, reviewed allegations of error and injustice on 30 September 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. Petitioner exhausted all administrative remedies which were available under existing law and regulations within the Department of the Navy.

b. In enclosures (3) and (4), the HQMC offices with cognizance over Petitioner's request to remove the page 11 entries have commented to the effect that this request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosures (3) and (4), the Board finds an error and injustice warranting the following corrective action:

RECOMMENDATION:

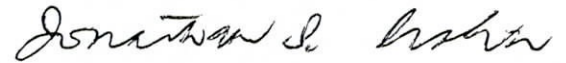
a. That Petitioner's naval record be corrected by removing the three service record page 11 ("Administrative Remarks (1070)") entries, each dated 20 June 2008, and his rebuttals, each dated 24 June 2008. The entries concern an inappropriate relationship, disobeying a lawful order or regulation by storing sexually explicit material on a Government computer, and disobeying a lawful order or regulation by misusing a Government cellular telephone. This is to be accomplished by physically removing the page 11's on which the entries appear and the rebuttals, or completely obliterating the entries and rebuttals so they cannot be read, rather than merely lining through them (contested material in Official Military Personnel File at Service-Contract folder, images 49-54).

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.

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