



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

TJR  
Docket No: 271-14  
22 May 2014

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Petitioner's naval record/CD  
(4) HQMC JAM2 memo dtd 11APR14  
(5) HQMC MIQ memo dtd 30APR14

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps, filed enclosure (1) with this Board requesting that his naval record be corrected by removing any and all derogatory material regarding the nonjudicial punishment (NJP) imposed on 27 April 2010 from his Official Military Personnel File (OMPF). This request includes, but is not limited to any/all references thereto. Enclosures (1) through (3) apply.
2. The Board, consisting of Messrs. Exnicios, Hedrick, and Ruskin reviewed Petitioner's allegations of error and injustice on 20 May 2014 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. In addition, the Board considered the advisory opinions furnished by Headquarters Marine Corps (HQMC), copies of which are provided in enclosures (4) and (5).
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. Enclosure (1) was filed in a timely manner.

c. Petitioner's OMPF contains a unit punishment book entry which notes that he received an NJP on 27 April 2010 for wrongfully discharging a firearm. The record further reflects a page 11 which notes that he received counselling regarding the imposition of this NJP.

d. Correspondence dated 23 March 2011 from the commanding officer who imposed the NJP states, in part, that it was set aside on 27 April 2010 and that any property, privileges, or rights affected by the portion of the punishment are restored.

e. Enclosure (4), an advisory opinion from HQMC Military Justice Branch, Judge Advocate Division (JAM) regarding Petitioner's request to remove the NJP and page 11 recommended relief. The advisory opinion states, in part, that the commander who imposed punishment or his/her successor may set aside punishment, and did so in this case. In this regard, the NJP, as well as any/all derogatory material which references it, should be removed from both the Marine Corps Total Force System (MCTFS) and Petitioner's OMPF.

f. Enclosure (5), an advisory opinion from HQMC Manpower Information Quality Assurance, Manpower Information Systems Division (MIQ), in concurrence with the legal opinion of JAM, also recommended relief.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board substantially concurs with the comments contained in the advisory opinions and concludes that since the NJP was set aside, it should be removed from both Petitioner's OMPF and the MCTFS. Further, the page 11 should also be removed from Petitioner's OMPF.

In view of the foregoing, the Board finds the existence of an error and injustice warranting the following corrective action.

#### RECOMMENDATION:


a. That Petitioner's naval record be corrected by removing and/or totally obliterating the NJP dated 27 April 2010 and the page 11 administrative remarks entry which references it, as well as all references thereto.

b. That any and all materials 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 materials 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

  
BRIAN J. GEORGE  
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 Regulation, 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.

  
ROBERT D. ZSALMAN  
Acting Executive Director