



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

HD

Docket No. NR4968-14

21 November 2014

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 20 Mar 14
(2) PERS-32 memo dtd 29 Aug 14

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 enlisted performance evaluation report for 16 March 2007 to 1 February 2008 (copy at Tab A), leaving in the record the report for 16 March 2007 to 31 January 2008 (copy at Tab B).

2. The Board, consisting of Messrs. Hicks, Spooner and Swarens, reviewed Petitioner's allegations of error and injustice on 20 November 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 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 report, submitted on 30 January 2008, is more favorable to Petitioner than the report he wants left in the record, submitted earlier on 2 January 2008, in that the "Individual Trait Average" (block 40) is higher ("4.14" versus "4.00"), and block 46 ("Promotion Recommendation - Summary") of the contested report shows one peer marked below Petitioner, whereas the report he wants left in the record does not compare him with anyone else.


b. In enclosure (2), the Navy Personnel Command (NPC) office with cognizance over subject matter of Petitioner's case has commented to the effect that the contested report should be left in the record, and the report Petitioner wants left in the record should be removed, because the ending date of the contested report aligns with Petitioner's duty history.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (2), the Board finds an error warranting removal of the report ending 31 March 2008, rather than the contested report. The Board is unable to find the more favorable marks and peer comparison in the contested report, which was submitted last, are incorrect. 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 following enlisted performance evaluation report and related material, leaving in the record the report for 16 March 2007 to 1 February 2008:

Date of Report	Reporting Senior	Period of Report	
		From	To
02 Jan 08	 USN	16 Mar 07	31 Jan 08

b. That NO memorandum be filed in place of the report to be removed, as this report is not needed to maintain continuity.


c. That appropriate corrections be made to the magnetic tape or microfilm maintained by NPC.

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 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.


JONATHAN S. RUSKIN
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.


ROBERT J. O'NEILL
Executive Director