



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

SJN  
Docket No: 6108-14  
18 September 2014

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 with attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an active duty enlisted member of the Navy, filed enclosure (1) with this Board requesting that the nonjudicial punishment (NJP) he received on 2 March 2014 be removed from his Official Military Personnel File (OMPF).

2. The Board, consisting of Mr. Clemmons, Mr. Spain, and Mr. Dixit, reviewed Petitioner's allegations of error and injustice on 16 September 2014 and, pursuant to its regulations, determined that the limited 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. On 2 March 2014, Petitioner received NJP for disrespect toward a Marine Corps colonel while working out in the gym, by saying to him "Psst, whatever" or words to that effect, after being told to stop dropping weights. He was awarded a reduction in paygrade to E-4/HM3, extra duty, and a forfeiture of pay.

c. In his application, Petitioner submits a copy of a Special Request Authorization (NAVPERS 1336/3) dated 14 April 2014, in which he requested to appeal his NJP. His request was

disapproved and the command stated, in part, that he had been given a sufficient amount of time for the appeal process, and recommended that he pursue relief through this Board.

d. Petitioner now states, in part, that at the time of the incident, he did not know that he was talking to a Marine Corps colonel since everyone was in workout gear. He felt pressured from his chain of command to accept NJP, and that if he refused, it could have resulted in more severe punishment, such as a court-martial or administrative discharge action. Upon his return from Afghanistan, he was finally able to speak to a defense counsel regarding his NJP procedures. He believes his NJP was unjust and the punishment was disproportionate to the offense.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants partial favorable action in the form of relief. Even though the NJP was proper, based on his conduct, a portion of the punishment awarded, a reduction in paygrade, is disproportionate to the offense committed. The Board believes, however, that the extra duty and forfeiture of pay are appropriate punishment. In view of the foregoing, the Board recommends the following limited corrective action:


RECOMMENDATION:

a. That Petitioner's reduction to paygrade E-4 awarded at NJP on 2 March 2014, be set aside and that all property, privileges, and rights affected by it be restored.

b. That no further relief be granted.

c. That this Report of Proceedings be filed in the 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.

  
BRIAN J. GEORGE  
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.

A handwritten signature in black ink, appearing to read "Robert J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL  
Executive Director