



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

ES  
Docket No: 7639-14  
6 August 2015

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

Subj: REVIEW NAVAL RECORD OF \_\_\_\_\_, USMC,  
XXX-XX-

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

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Petitioner's naval record (excerpts)

1. Pursuant to the provisions of reference (a), Petitioner, a former 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, specifically, the nonjudicial punishment (NJP) for wrongful use, possession, etc. of controlled substances dated 20 May 2010, from his Official Military Personal File (OMPF) and/or Electronic Service Record (ESR), where applicable. Enclosures (1) through (3) apply.

2. The Board, consisting of 5 U.S.C 552(b) (6) reviewed Petitioner's allegations of error and injustice on 29 July 2015, 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 correspondence dated 22 February 2011, from Commanding Officer, Marine Wing Support Squadron 372, a copy of which is attached to enclosure (2).

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 received NJP on 20 May 2010, for wrongful use, possession, etc. of controlled substances (oxycodone and oxymorphone) and was awarded a reduction to paygrade E-3/LCPL, which was suspended for six months, restriction and extra duty for 45 days, and a \$1,922 forfeiture of pay.

d. Petitioner was advised of administrative separation due to the foregoing NJP and after consulting legal counsel elected to present his case to an administrative discharge board (ADB). Subsequently, an ADB determined that Petitioner had not committed misconduct as reflected in the NJP and recommended retention.

e. On 22 February 2011, the Commanding Officer, Marine Wing Support Squadron 372 (MWSS-372) determined that since the ADB had found that the NJP was unjust, and Petitioner did not commit the offense of wrongful use, possession etc. of controlled substances, and retained him, the NJP should be removed from the record.

f. Petitioner was honorably discharged on 8 September 2014, upon completion of his required active service and assigned an RE-1A reenlistment code.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the correspondence from MWSS-372, the Board concludes that Petitioner's request warrants favorable action. In this regard the Board substantially concurs with the comments contained in the foregoing correspondence and concludes that the NJP and all references regarding it should be removed from the record.

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

RECOMMENDATION:

a. That Petitioner's naval be corrected by removing and/or totally obliterating the NJP dated 20 May 2010, and all references thereto.

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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.

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.

5 U.S.C 552(b) (6)

T. J. REED  
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.

5 U.S.C 552(b) (6)

ROBERT J. O'NEILL  
Executive Director