



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

TJR
Docket No: 8738-14
12 September 2014

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

Subj: [REDACTED]

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

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

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 references to the nonjudicial punishment (NJP) imposed on 21 May 2012. This request includes, and is not limited to, removal of the NJP from his Official Military Personnel File (OMPF), Electronic Service Record (ESR), and the Marine Corps Total Force System (MCTFS).

2. The Board, consisting of Messrs. Exnicios, Gattis, and Sproul, reviewed Petitioner's allegations of error and injustice on 3 September 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.

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 21 May 2012 for two specifications of unauthorized absence and failure to obey a lawful order. The punishment imposed was a punitive letter of reprimand, restriction for 30 days, and a forfeiture of pay.

d. On 6 March 2013, the commanding officer, who imposed the NJP, submitted a letter setting it aside. The letter stated in part, that due to unusual circumstances the punishment was a clear injustice. It also inferred that all rights, privileges, and property affected by virtue of the NJP shall be restored.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the commanding officer's letter to set the NJP aside, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board concludes that since the commanding officer set aside the NJP, all references in his record regarding it should be removed or obliterated. With that being said, any and all documents, to include, but not limited to, the Unit Punishment Book entry and any other references, should be expunged from the record.

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 totally obliterating or removing the 21 May 2012 NJP, and all other references thereto.

b. That Petitioner's naval record be corrected by removing all references to a promotion restriction.

c. 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.

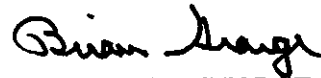
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross-reference being made a part of Petitioner's naval record.

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

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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.



ROBERT J. O'NEILL
Executive Director