



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 08720-00
5 April 2001

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

Subj: SSGT [REDACTED], USM [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 18Dec00 w/attachments
(2) HQMC MIFD memo dtd 31Jan01
(3) Memo for Record dtd 9Feb01
(4) Subject's naval record

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 a service record page 11 ("Administrative Remarks (1070)") entry dated 31 July 1992. A copy of the page 11 entry is at Tab A. As indicated in the correspondence at enclosure (2) from Headquarters Marine Corps (MIFD), they have directed amending the contested service record page 11 entry by removing the words "and receiving [sic] Company Office hours."

2. The Board, consisting of Messrs. Chapman, Shy and Zs Salman, reviewed Petitioner's allegations of error and injustice on 5 April 2001, 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. The contested entry states that Petitioner was not recommended for promotion to sergeant for the July, August, September 1992 promotion period because of driving under the influence "and receiving [sic] Company Office hours [nonjudicial punishment (NJP)]."

c. Petitioner submitted a letter from his commanding officer (CO) dated 22 September 1993, stating that the NJP awarded Petitioner on 11 June 1992 for violation of

Article 111 of the Uniform Code of Military Justice (drunken or reckless driving) is set aside. The letter further requested that a unit diary entry be made reinstating the \$250.00 forfeiture and that the service record page 12 ("Offenses and Punishments") entry be removed.

d. The MIFD correspondence at enclosure (2) did not make any recommendation as to whether this Board should grant the full relief Petitioner requested. The memorandum for record at enclosure (3) reflects the reason they had granted only limited relief was that they felt the "situation looks a bit suspicious" in view of the CO's having taken 15 months to set aside the NJP, a period they considered "a bit lengthy," and his having given no reason for his action.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the requested relief. Having duly noted the concerns cited in enclosure (3), they are nevertheless satisfied that the CO action setting aside the NJP warrants complete removal of the contested page 11 entry. Accordingly, they direct the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing the service record page 11 ("Administrative Remarks (1070)") counseling entry dated 31 July 1992. This is to be accomplished by reconstructing the page on which the entry appears or by completely obliterating the entry so it cannot be read, rather than merely lining through it.

b. 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.

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.



JONATHAN S. RUSKIN
Acting Recorder

ROBERT D. ZSALMAN
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.


W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1070
MIFD
31 JAN 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED]
[REDACTED] USMC

Encl: (1) CMC ltr 1070 MI of 29 Jan 2001
(2) Head, Field Support Branch MEMORANDUM dated 30 Jan 01

1. We reviewed Staff Sergeant [REDACTED] application and supporting documents concerning his request for removal of the Administrative Remarks (1070), NAVMC 118(11), page 11 entry dated 920731 from his service records.

2. Staff Sergeant [REDACTED] claim why he believes that his records are in error or unjust is supported by MCO P1070.12, Marine Corps Individual Records Administration Manual (IRAM) and MCO P5800.16, Marine Corps Manual For Legal Administration (LEGADMINMAN).

3. The enclosures are forwarded, informing the Board that limited relief of Staff Sergeant [REDACTED] requested action was administratively granted by this office.

4. Upon receipt, this office will forward to the Board the documents requested in enclosure (1).

5. Point of contact [REDACTED]

[REDACTED]

Head, Field Support Branch
Manpower Management Information
Systems Division

8720-00



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1070
MIFD
29 JAN 2001

From: Commandant of the Marine Corps
To: Commanding Officer, Headquarters Battalion, Third Marine
Division, Marine Forces Pacific, Unit 35840, FPO AP
[REDACTED]

Subj: BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED]
[REDACTED] SMC

Ref: (a) MCO P1070.12

1. The Board for Correction of Naval Records (BCNR) has requested that this Headquarters review Staff Sergeant [REDACTED] application and provide advisory opinions and recommendations. Additionally, upon completion of the review and in the event that Staff Sergeant [REDACTED] requested action(s) can be granted administratively, corrective action by this Headquarters is authorized with written notification to the BCNR, addressing corrective action taken.

2. After a review of Staff Sergeant [REDACTED] records (OMPF/SRB) and his application, it has been determined that the Administrative Remarks(1070) NAVMC 118(11) page (11)a entry dated 920731 is in error.

3. Effective upon receipt, it is requested that the following corrective action be effected per the reference:

a. Reconstruct the Administrative Remarks page (11)b, deleting the phrase "and recieving Company Office hours." from the page 11 entry dated 920731.

b. Cite this letter as authority for the record correction as the last entry on the page.

c. Return the original Administrative Remarks(1070) NAVMC 118(11) page (11)b under separate cover to this Headquarters (MIFD), indicating all corrective actions completed.

4. Point of contact [REDACTED] MAIL at welchjr@manpower.usmc.mil.

[REDACTED]

By direction

Encl (1)

30 Jan 01

MEMORANDUM

From: Head, Field Support Branch, Manpower Management
Information Systems Division

To: Head, Personnel Management Support Branch

Subj: CORRECTION TO THE OFFICIAL MILITARY PERSONNEL FILE
IN THE CASE OF STAFF SERGEANT [REDACTED]
USMC

Ref: (a) MCO P1070.12K

1. The Board for Correction of Naval Records (BCNR) has requested that this Headquarters review the subject named Marine's application and provide advisory opinions and recommendations concerning his alleged claim of error and injustice to his records. Additionally, in the event that his requested action can be granted administratively, corrective action by this Headquarters is authorized per the reference.

2. After a review of Staff Serg [REDACTED] application and records (OMPF), it has been determined that the following error requires corrective action. Request that the ADMINISTRATIVE REMARKS(1070) NAVMC 118(11), page (11)b entry dated 920731 be corrected by expunging the phrase "and recieving Company Office hours." from his OMPF.

3. Please notify [REDACTED] or by EMAIL at welchjr@manpower.usmc.mil when the corrective action is completed.

[REDACTED]

Enc (2)

9 FEBRUARY 2001

MEMORANDUM FOR THE RECORD

I RECEIVED ADVISORY OPINION FROM HQMC (MIFD) ~~RECOMMENDING~~ ^{GRANTING} PARTIAL RELIEF. PET REQUEST REMOVAL OF A PG 11 COUNSELING ENTRY DTD 31 JUL 92 WHICH INDICATES NOT RECOMMENDED FOR PROMOTION DUE TO DUI AND RECEIVING COMPANY OFFICE HOURS. NJP WAS HELD ON 11 JUN 1992, AND THE CO SET ASIDE THE NJP ON 22 SEP 1993. MI ^{GRANTS} ~~RECOMMENDS~~ LIMITED RELIEF, DELETING ONLY THE PHRASE ~~"AND RECEIVING COMPANY OFFICE HOURS,"~~ VICE COMPLETELY REMOVING THE PG 11.

I TELEPHONED [REDACTED] (POC AT MI) ASKING WHY THEY ^{GRANTED} ~~RECOMMENDED~~ LIMITED RELIEF FOR [REDACTED] MR. WELCH REVEALED THAT A COMMANDING OFFICER HAS A MAXIMUM OF 4 MONTHS TO SET ASIDE A NJP; 15 MONTHS A BIT LENGTHY, AND THE CO GIVES NO REASON FOR SETTING ASIDE NJP. MI FELT THE SITUATION LOOKS A BIT SUSPICIOUS.

CASE EXAMINER
SHIRLEY COLSTON