



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

JSR
NR9184-13
6 February 2014

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

Subj: SGT. [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 23 May 13 w/attachment
(2) Subject's Master Brief Sheet (MBS) dtd 5 Aug 13
(3) HQMC MMSB-18/PERB memo dtd 4 Dec 13
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that the applicable naval record be corrected by modifying the fitness report for 1 July 2012 to 31 March 2013 (copy at Tab A), in accordance with the reviewing officer (RO)'s letter of 22 May 2013 (at enclosure (1)), by raising the mark in section K.3 (RO's "Comparative Assessment") from the sixth best of eight possible marks to the fourth best and adding, to section K.4 (RO's comments), "He has excellent potential for further service, both on recruiting duty and in the operating forces; he is absolutely recommended for promotion."

2. The Board, consisting of Ms. Montgomery and Messrs. Gorenflo and Midboe, reviewed Petitioner's allegations of error and injustice on 6 February 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 which were available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. In Petitioner's previous fitness report for 1 April 2011 to 31 March 2012 (copy at Tab B), which evaluated his performance of the same duty at the same station with a different reporting senior (RS) and same RO as in the report in question, the RS marked him higher in three areas ("C" (fifth best of seven possible marks) rather than "B" (sixth best)), sections D.1 ("Performance"), D.2 ("Proficiency") and E.3 ("Initiative"), and the RO assigned him the same mark in section K.3. On the other hand, enclosure (2) shows that the RS Relative Value, the measure of how the marks in a given fitness report compare with those in the other reports the same RS has submitted, is 82.62 for the previous report and a more favorable 85.56 for the report at issue..

d. In his letter the RO said the mark he originally assigned in section K.3 was "incorrect" and that his "standard recommendations for further service and promotion were missing." He provided no additional information to support his assignment of a higher mark in section K.3.

e. Enclosure (3) is the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) in Petitioner's case. The report reflects the PERB decision to deny Petitioner's request. The PERB stated that "The timeliness from when the RO completed his [original] review and his letter requesting the changes, a total of 23 days, makes his request reasonable and credible." The PERB further stated "It is clear that the petitioner's performance did increase in terms of the report's Relative Value compared to the prior report, albeit by different [RS], and the RO's modified assessment supports that fact." However, the PERB denied the request because "the RO failed to give justification as to why the mark should be raised."

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding the PERB decision to deny Petitioner's request, the Board finds an error warranting the requested relief. The Board particularly notes the timeliness of the RO's letter, only 23 days after his original review, and the PERB conclusion that this makes Petitioner's request "reasonable and credible." In view of the above, the Board recommends the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by modifying as follows section K of the fitness report for 1 July 2012 to 31 March 2013, signed by Chief Warrant Officer 2 [REDACTED], USMC and dated 11 April 2013:

- (1) Section K.3: Raise mark from the sixth best to the fourth best.

(2) Section K.4: Add "He has excellent potential for further service, both on recruiting duty and in the operating forces; he is absolutely recommended for promotion."

b. That the magnetic tape maintained by HQMC be corrected accordingly.

c. 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.

da. That any material directed to be removed from Petitioner's naval record be returned to this 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.

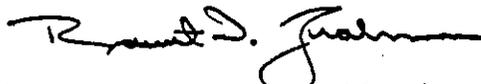
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Acting Recorder



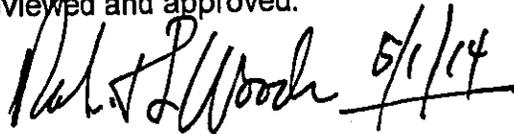
JONATHAN S. RUSKIN
Recorder

5. The foregoing report of the Board is submitted for your review and action.



ROBERT D. ZSALMAN
Acting Executive Director

Reviewed and approved:



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