



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

█
Docket No: 4941-20
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █ XXX XX
█ USMC RET

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO P1610.7

Encl: (1) DD Forms 149 w/attachments
(2) Fitness Report for the reporting period 1 Jun 15 to 19 May 16
(3) Fitness Report for the reporting period 3 Dec 14 to 31 May 15
(4) HQMC memo 1610 MMRP-13/PERB of 25 Jun 20

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting her naval record be corrected by modifying the fitness report for the reporting period 1 June 2015 to 19 May 2016 and removing the failures of selection she incurred by the Fiscal Year (FY) 2018 and FY 2019 USMC Lieutenant Colonel Promotion Selection Boards.

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 30 April 2021 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's 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, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. Petitioner was issued enclosure (2), a fitness report for the reporting period 1 June 2015 to 19 May 2016. She contends the attribute markings for sections D.1, F.1, and F.2 of enclosure (2) are not consistent with the attribute markings for those same sections in enclosure (3), the fitness report for the preceding period of 3 December 2014 to 31 May 2015. Specifically, Petitioner contends the attribute markings were downgraded without counseling while section I remarks of enclosure (2) "contained related laudatory comments."

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c. Petitioner incurred failures of selection (FOS) by the Fiscal Year (FY) 2018, FY 2019, FY 2020, and FY 2021 Lieutenant Colonel Promotion Selection Boards (PSB). She contends the perceived degradation in performance and leadership, which may have led to her non-selection, warrant removal of the FOS by the FY 2018 and FY 2019 Lieutenant Colonel PSB.

d. Petitioner further contends enclosure (2) contains the following material errors and substantive inaccuracies:

1) Section A.6a is missing a notation for commendatory material after receiving an award for meritorious achievement during Exercise [REDACTED] and meritorious service as the supply officer during the reporting period.

2) Section 1, 3a is missing a notation for periods of nonavailability from 2-25 July 2015 and 6 September 2015 to 16 October 2015.

3) Section K is missing a certification that the report is administratively correct, a statement that certifies the report, and a notation about Petitioner's professional abilities and potential compared to her peers.

e. The Advisory Opinion (AO) at enclosure (4) recommends denial of Petitioner's request to change the attribute markings for D.1, F.1, and F.2 because guidance provided in reference (b) does not preclude a reporting official from lowering a graded attribute marking on subsequent reports nor does it require justification or formal counseling. Further, the AO stated Petitioner's petition lacked any evidence to suggest the Reporting Senior (RS) maliciously, capriciously or intentionally marked the Petitioner in a manner that ensured the relative value would be at the bottom of the RS profile.

f. Additionally, the AO concluded the 2-25 July 2015 period of contended non-availability did not meet the reference (b) requirements for non-availability, and although the 6 September 2015 to 16 October 2015 period exceeded 30 days, neither period of time factored significantly into the 12-month period of performance for minimum observation purposes and thus did not constitute a period of non-availability for purposes of determining minimum observation requirements.

g. Further, the AO concluded Petitioner's contention that section K lacked the required certification statement and notations regarding her professional abilities and potential compared to her peers was not in error or unjust because reference (b) places no certification requirement on the Reviewing Officer (RO) and the RO did opine regarding Petitioner's future potential.

h. Lastly, the AO concluded the absence of an accurate notation in Section A, 6a was material error but the error did not render the fitness report substantively inaccurate or invalidate the report. The AO further stated the omission could be rectified via separate correspondence with Headquarters, Marine Corps (MRRP-31).

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CONCLUSION

Upon review and consideration of all the evidence of record, and relying on the AO at enclosure (2), the Board concluded there was insufficient evidence of an error or injustice to warrant granting Petitioner's requested relief. However, the Board noted the AO's statement that the omission of the accurate notation in section A, 6a was material error that could be rectified via separate correspondence and determined the required notation should be directed by the Board without requiring additional correspondence from Petitioner.

With respect to Petitioner's request to remove the FY 2018 and FY 2019 FOS, the Board determined the administrative corrections required in section A, 6a were not substantive enough to have altered the PSB's decision in FY 2018 or FY 2019.

RECOMMENDATION

In view of the above, the Board recommends the following corrective action.

MRRP-31 is directed to accurately notate in section A of enclosure (2) Petitioner's receipt of awards for meritorious achievement during Exercise [REDACTED] and meritorious service while serving as a supply officer during the reporting period.

No further relief granted.

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.

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.

5/11/2021

[REDACTED]

Executive Director

Signed by [REDACTED]