



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

██████████
Docket No: 1323-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████, USN,
XXX-XX ██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1610.10D

Encl: (1) DD Form 149 w/attachments
(2) Evaluation Report & Counseling Record for the reporting period 16 Jun 13 to 4 Mar 14
(3) Evaluation Report & Counseling Record for the reporting period 5 Mar 14 to 15 Jul 14
(4) Evaluation Report & Counseling Record for the reporting period 16 Jul 14 to 31 Aug 14
(5) CO, NPC (PERS-00J) set-aside ltr 5812 Ser-00J/030 of 9 Apr 15
(6) CO, ██████████ ltr 1000 SUP of 22 Jan 16
(7) Advisory Opinion memo 1610 PERS-32 of 15 Mar 21

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 that his naval record be corrected by removing the Evaluation Report & Counseling Records (Evals) for the reporting periods 16 June 2013 to 4 March 2014, 5 March 2015 to 15 July 2014, and 16 July 2014 to 31 August 2014 from her official military personnel file (OMPF).

2. Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 28 October 2021 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, 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.

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b. On 5 March 2014, Petitioner received nonjudicial punishment (NJP) and was reduced in rank to E-3.

c. Petitioner was issued enclosure (2), a Special/Regular Eval for the reporting period 16 June 2013 to 4 March 2014, documenting her substandard performance and NJP.

d. Petitioner was issued enclosures (3) and (4), a Periodic/Regular Eval and a Special/Regular Eval for the reporting periods 5 March 2014 to 15 July 2014 and 16 July 2014 to 31 August 2014, respectively.

e. On 31 August 2014, the Commanding Officer (CO) who imposed NJP, set aside the NJP and restored the Petitioner's rank. On 9 April 2015, Navy Personnel Command (PERS-00J), approved the set aside and directed PERS 313 to expunge all records pertaining to the NJP. Enclosure (5).

f. On 22 January 2016, the CO, [REDACTED], submitted a letter to NPC explaining that all records pertaining to the Petitioner's NJP are still on file; however, three new reports have been issued and submitted. Enclosure (6).

g. Petitioner contends the first Eval was replaced by two other reports following an expungement of an NJP and the PERS-00J letter directs PERS-313 to expunge all reports of the NJP.

h. Enclosure (7), the advisory opinion (AO), furnished by PERS-32, noted that their office did not receive the set aside approval letter by PERS-00J nor was it addressed to their office. In consideration of all the evidence, PERS-32 determined the contested Eval at enclosure (2) should have been removed from Petitioner's OMPF due to the NJP being set aside. PERS-32 further determined the Evals at enclosures (3) and (4) are unnecessary and should be removed as well. PERS-32 noted the Petitioner has Evals on file that provide continuity.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the AO, the Board finds the existence of an error warranting corrective action. The Board noted that Petitioner furnished sufficient evidence that the NJP held on 5 March 2014 was set aside. Thus, the Board substantially concurred with the AO that the contested Evals were submitted in error, and concluded that they shall be removed from Petitioner's OMPF.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (2) – (4), her Evals for the reporting periods 16 June 2013 to 4 March 2014, 5 March 2015 to 15 July 2014, and 16 July 2014 to 31 August 2014.

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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.

11/18/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]