



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

█
Docket No. 3313-21
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1400.32D W/CH 2

Encl: (1) DD Form 149 w/enclosures
(2) Fitness Report for the reporting period 6 Jan 18-9 Mar 18
(3) HQMC memo 1610 MMRP-30 of 26 Jan 21
(4) HQMC memo 1610 MMRP-13 of 19 Apr 21
(5) HQMC memo MMRP-50 of 29 Apr 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 making his fitness report for the reporting period 6 January 2018 to 9 March 2018 “Not Observed”. Petitioner also requested removal of his Fiscal Year (FY) 2022 failure of selection (FOS) to the grade of lieutenant colonel.

2. The Board, consisting of █, █, and █, reviewed Petitioner’s allegations of error and injustice on 27 January 2022 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.

b. Petitioner contends that enclosure (2), his fitness report for the reporting period should have been “Not Observed” as the reporting period was only 53 days and the Petitioner was a student at Marine Aviation Weapons and Tactics Squadron █ Weapons and Tactics Instructor (WTI) course during the reporting period. The Board noted that the reporting senior (RS) of the contested fitness report wrote a letter endorsing Petitioner’s request.

c. Enclosure (3), an advisory opinion (AO) furnished by Headquarters, Marine Corps (MMRP-30), recommended granting Petitioner’s request to amend the report. The AO noted

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC

that parent commands do not maintain close and personal observations of students at WTI and that the RS omitted a required Section I comment for invoking an exception to policy for a less than 90 day observed fitness report. Headquarters Marine Corps PERB (MMRP-13) concurred and directed that the contested report be changed to "Not Observed" on 19 April 2021, enclosure (4).

d. Petitioner failed selection by the FY 2022 USMC Lieutenant Colonel Promotion Selection Board but was promoted to lieutenant colonel by the FY 2023 USMC Lieutenant Colonel Promotion Selection Board. The contested fitness report had been modified before the convening of the FY23 Lieutenant Colonel Promotion Selection Board but was available for consideration by the FY22 Lieutenant Colonel promotion selection board. Enclosure (5), an AO furnished by Headquarters, Marine Corps (MMRP-50), recommended granting Petitioner's request to remove the FOS noting that Petitioner's record was significantly improved by modifying the contested fitness report to "Not Observed".

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the AOs, the Board determined that Petitioner's request warrants partial relief. The Board found that the PERB already modified the fitness report as the Petitioner requested.

The Board determined the FY22 FOS is a material error in Petitioner's record. The Board noted that after the fitness report was modified the Petitioner was selected for lieutenant colonel in the next selection board. The Board concurred with the MMRP-50 AO that the contested fitness report modification was significant enough to alter a promotion board's opinion. The Board thus concluded that Petitioner's FY 2022 failure of selection to the grade of lieutenant colonel shall be removed.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing Petitioner's FY 22 failure of selection to lieutenant colonel from his record.

No further relief be 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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC

corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

2/9/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]