



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

[REDACTED]
Docket No: 3743-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 1610.7A
(c) Phonecon w/Reviewing Officer 3 Nov 21

Encl: (1) DD Form 149 w/attachments
(2) Fitness Report for the reporting period 9 Jul 19 to 31 May 20
(3) HQMC ltr 1610 MMRP-30 of 23 Apr 21
(4) HQMC memo 1610 MMRP-13/PERB of 24 May 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 his naval record be corrected by modifying the fitness report for the reporting period 9 July 2019 to 31 May 2020.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 4 November 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 the 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. Petitioner was issued enclosure (2), a fitness report for the reporting period 9 July 2019 to 31 May 2020. He contends Section G.1 "Professional Military Education" was unjustly marked "B" due to miscommunication between himself and the Reporting Senior (RS) on what professional military education he had completed. The RS requested the mark be changed from "B" to "D," and the Reviewing Officer (RO) endorsed the RS's requested change.

c. Enclosure (3) is an advisory opinion (AO) furnished by Headquarters Marine Corps Performance Evaluation Section (MMRP-30). The AO determined Petitioner has shown by a preponderance of evidence probable material error, substantive inaccuracy, or injustice warranting modification of the fitness report, and recommended this fitness report be amended by changing Section G.1 "Professional Military Education" from "B" to "D."

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d. On 24 May 2021, Petitioner's request contained in enclosure (1), as well as the AO at enclosure (3), were considered by the Headquarters Marine Corps Performance Evaluation Review Board (PERB). As referenced in enclosure (4), the majority opinion of the three members of the PERB was that, contrary to the AO, the petition did not demonstrate probable material error, substantive inaccuracy, or injustice warranting modification of the fitness report in accordance with reference (b). Specifically, PERB found the advocacy letters from the RS and RO were not signed and therefore considered them invalid.

e. On 3 November 2021, the Examiner preparing the case for presentation to the Board confirmed, as noted by reference (c), that the RO and RS submitted the advocacy letters and were in agreement the Section G.1 mark should be "D" vice "B."

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief. Despite the PERB's decision to deny Petitioner's request, the Board was convinced by the justification provided in the AO at enclosure (3) and the confirmation provided by the RO by reference (c). The Board thus concluded Petitioner's record shall be corrected by modifying his fitness report at enclosure (2) as recommended by the AO at enclosure (3).

RECOMMENDATION

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

Petitioner's naval record be corrected by modifying Section G.1 "Professional Military Education" of enclosure (2) to read "D" vice "B."

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 Regulation, 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.

11/19/2021

[REDACTED]
Executive Director
[REDACTED]