



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

[REDACTED]
Docket No. 6147-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
[REDACTED]

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

Encl: (1) DD Form 149 w/enclosures
(2) Evaluation Report & Counseling Record for the reporting period 30 Nov 20 to 15 Mar 21
(3) NPC memo 1610 PERS-32 of 13 Dec 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 removing the Evaluation Report & Counseling Record (EVAL) at enclosure (2).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 24 February 2022, 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 non-observed (NOB) periodic EVAL for the reporting period 30 November 2020 to 15 March 2021. Block 43 comments note the command was exercising a "max telework posture" making Petitioner's performance "unobservable during the 105 days onboard."

c. The Advisory Opinion (AO) at enclosure (3) states the Reporting Senior (RS), under unique circumstances, can submit a NOB report for any period, to include a period greater than 90 days, if the RS does not feel that there has been enough observation to grade with confidence. The AO further explains enclosure (2) is not in violation of reference (b) because the RS's comments in block 43 support the submission of the NOB report.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
[REDACTED]

d. Petitioner contends the NOB EVAL was submitted in error and needs to be replaced with an observed EVAL because the reporting period was greater than three months.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief. The Board determined “max telework posture” should not have rendered Petitioner’s performance “unobservable” by the RS and concluded it was an injustice for the RS to issue Petitioner a NOB report for the 105-day reporting period.

RECOMMENDATION

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

Petitioner’s naval record be corrected by removing enclosure (2), the EVAL for the reporting period 30 November 2020 to 15 March 2021.

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.

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.

3/29/2022

[REDACTED]