



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

█
Docket No. 7585-21
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 9 Jan 09-31 May 09
(3) HQMC memo 1610 MMRP-30 of 17 Aug 21
(4) HQMC memo 1610 MMRP-13 of 27 Sep 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 marking his fitness report for the reporting period 9 January 2009 to 31 May 2009 as commendatory, have the required directed comment added to Section I, and to change the reporting senior (RS) markings of the report in accordance with RS endorsement. Petitioner also requested removal of his Fiscal Year (FY) 2021, 2022, and 2023 failures of selection (FOS) to the grade of lieutenant colonel.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 15 March 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 marked commendatory as he received a Certificate of Appreciation (COA) from the Commanding General (CG), Marine Corps Systems Command during the reporting period. Furthermore, Petitioner states that his RS would have altered 3 attribute markings for Section D (Proficiency), Section G (Professional Military Education), and Section G (Judgment) on the basis of the COA. Petitioner failed selection by the FY 2021, FY 2022, and FY 2023

USMC Lieutenant Colonel Promotion Selection Boards. The Board noted that the 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), noted that Petitioner provided sufficient evidence that the report be administratively corrected to reflect a commendatory marking since the COA was awarded during the period that the report covered. The AO suggested that the Petitioner request modification of the report via Headquarters Marine Corps MMRP-31. However, the AO recommended denying Petitioner's request to amend the report in accordance with the RS endorsement. The AO noted the COA was for Petitioner's performance and conduct at the Naval Post Graduate Advanced Acquisition Program at Marine Corps Systems Command from 2 October 2008 to 12 December 2008, outside the contested report's reporting period. Thus, the performance and conduct during the program was not subject to observation by the RS and could not be used to assess the Petitioner's performance during the contested report's period. Headquarters Marine Corps PERB (MMRP-13) concurred and directed that the contested report be remain as filed, enclosure (4).

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the AO, the Board determined that Petitioner's request warrants partial relief. The Board noted that the reviewing officer (RO) wrote a letter endorsing the fact that the report should have been marked affirmatively for commendatory material and that the AO concurred that the report contained an administrative error. The Board thus determined that the report shall be marked commendatory and that the directed comment shall be added to Section I.

However, the Board concurred with the AO that the RS attribute markings of the contested fitness report should not be modified as the RS did not actually observe the Petitioner during the period in which the Petitioner received the COA. Based on this finding, the Board concluded the preponderance of the evidence did not support removal of Petitioner's failures of selection to the grade of lieutenant colonel based on the recommended change to Petitioner's fitness report.

RECOMMENDATION

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

Petitioner's naval record be corrected by modifying enclosure (2) his Fitness Report for the reporting period of 9 January 2009 to 31 May 2009, by marking Item 6(a) for Commendatory Material and adding the directed comment in Section I: "Marine received Commendatory Material, Certificate of Appreciation 17 February 2009".

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

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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.

4/1/2022

[REDACTED]
Executive Director
[REDACTED]