



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

█
Docket No. 44-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, █
█ USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO 5354.1E

Encl: (1) DD Form 149 w/ enclosures
(2) Fitness Report for the reporting period 1 Jun 18 to 30 Jul 18
(3) Administrative Remarks (6105) counseling entry 6 Aug 18
(4) █ memo 5041 █ 15 Jan 21
(5) HQMC memo 1610 MMRP-30 of 1 July 21
(6) HQMC memo 1610 MMRP-13/PERB 21 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 that his naval record be corrected by removing enclosure (2).

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 19 April 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. Additionally, the Board considered the advisory opinion (AO) furnished by the Manpower Management Division Records & Performance Branch (MMRP-30), enclosure (5).

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 regulation within the Department of the Navy.

b. Petitioner received an adverse fitness report covering the period 1 June 2018 to 30 July 2018, enclosure (2), for being relieved for cause due to the commanding officer (CO) losing trust and confidence in Petitioner as a result of a substantiated Equal Opportunity (EO) Complaint. The Third Officer Sighter (TOS) comments stated that the complaint was ultimately resolved with the Informal Resolution System, but noted that harassment by Petitioner was substantiated by a thorough investigation, which justified the adverse report. On 6 August 2018, Petitioner received an Administrative Remarks 6105 counseling entry, enclosure (3), stating that Petitioner failed to follow reference (b). Petitioner contends that his fitness report and 6105 counseling are invalid because the EO Complaint was unsubstantiated. Petitioner submitted a complaint regarding the 6105 via the Command Inspector General (CIG) of █ On 15 January 2021, the CIG █ stated that the

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6105 counseling entry was not administered correctly, as the EO Complaint was dismissed as moot per reference (b) due to the complaint being resolved via the informal resolution method, enclosure (4).

c. In the advisory opinion, enclosure (5), MMRP-30 recommended a partial grant; noting that Petitioner did not provide sufficient evidence to suggest that the original EO complaint was unsubstantiated but noting that there were substantive inaccuracies and material error that warranted modification of the report. The Performance Evaluation Review Board (PERB) concurred and modified the contested report by removing the reviewing officer addendum page, and removing paragraphs and sentences in the TOS addendum page, enclosure (6).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board determined that Petitioner's request warrants relief. Of significance to the Board was the CIG TRNGCMD decision stating that upon a thorough review the 6105 entry was erroneous. The Board thus concluded that the 6105 entry shall be removed from Petitioner's official military personnel file (OMPF). The Board further noted that the contested fitness report is not observed, and although modified, still references the EO complaint that was dismissed following the informal resolution system. The Board thus determined that the fitness report shall be removed from Petitioner's OMPF.

RECOMMENDATION

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

Remove Petitioner's fitness report 1 June 2018 to 30 July 2018.

Remove Petitioner's Administrative Remarks 6105 counseling entry of 6 August 2018.

That no further changes be made to Petitioner's naval record.

That a copy of this report of proceedings be filed in Petitioner's naval record.

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

5/20/2022

[REDACTED]
Executive Director
[REDACTED]