



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

██████████
Docket No. 3445-22
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) 10 U.S.C. § 1552
(b) MCO 1610.7A (PES Manual)

Encl: (1) DD Form 149 w/attachments
(2) Fitness Report for the reporting period 1 Jan 19 to 22 Nov 19
(3) Reporting Senior FIRST ENDORSEMENT, (undated)
(4) Reporting Senior ltr 1610 ██████████ 1 Mar 22
(5) Advisory Opinion MMRP-30, 17 Mar 22
(6) Reviewing Officer e-mail, 22 Feb 22
(7) MMRP-13/PERB Decision, 8 Apr 22

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 or modify his fitness report at enclosure (2).

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's application on 23 June 2022. The names and votes of the panel members will be furnished upon request. Petitioner allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, 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 1 January 2019 to 22 November 2019. Petitioner was assigned as Customer Support Branch Staff Non-Commissioned Officer in Charge. Petitioner received a mark of 'C' for "Performance" and "Initiative" attributes, and a mark of 'D' for "Developing Subordinates. The fitness report was the second of four fitness reports written on grade by the Reporting Senior (RS) at processing, which generated a 3.23 report average. The period of performance was 11 months. The Reviewing Officer (RO) concurred with the RS's evaluation and provided favorable comments.

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c. Petitioner contends that the contested fitness report contains inconsistencies and irregularities, specifically, the RS comments conflict with the attribute markings and create a disparity with the report; RS marking philosophy did not reflect his performance accurately; RS average report marking is a 3.56 and high is a 4, a clear distinct difference between the two values; and the contested fitness report is below the RS's Cumulative Average with a grade of 3.23, while the RS's average is 3.56. Petitioner further contends he was filling the billet of a Gunnery Sergeant (GySgt), performed to the RS's expectations, never received bad paperwork or counselings, and the contested fitness report was commendatory.

d. The advisory opinion (AO), enclosure (5), furnished by the Manpower Management Division Records and Performance Branch (MMRP-30), recommended Petitioner's request to modify the aforementioned attributes and Section I comments. MMRP-30 noted that the Billet Identification Code Petitioner provided at enclosure (1) validates his contention that he was filling a billet normally slated for a GySgt. MMRP-30 also noted that the RS's favorable endorsement at enclosure (3) and the RS's letter to MMRP-13 at enclosure (4).

e. The decision by the Marine Corps Performance Evaluation Review Board (PERB), determined that the RO, who concurred with the original attribute markings, was "not comfortable" writing a letter on behalf of Petitioner to the PERB, and that the RS "marked [Petitioner] appropriately." The PERB determined that Petitioner did not demonstrate probable material error, substantive inaccuracy, or injustice, warranting removal of the fitness report and directed the fitness report be retained as filed. See enclosures (6) and (7).

MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Majority concluded Petitioner's request warrants favorable action. In this regard, the Majority concurred with the AO and felt the RS was inexperienced in evaluating the Marine in this grade which led to lower attribute markings. The Majority was also persuaded by Petitioner's statements and the RS's endorsement and letter which they determined provided appropriate justification for an increase in the attribute markings.

MAJORITY RECOMMENDATION

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

Petitioner's naval record be corrected by modifying enclosure (2), his fitness report for the reporting period 1 January 2019 to 22 November 2019 as follows:

- Section D.1, "Performance", change the "C" to "D";
- Section E.3, "Initiative", change the "C" to "D";
- Section F.2, "Developing Subordinates", change the "D" to "E"; and
- Section I, RS Comments, insert "Directed Comment: "MRO successfully served a billet held for a Gunnery Sergeant."

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

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MINORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Minority member concurred with PERB's decision and determined that the RS did not furnish any sound justification for upgrading marks and is therefore "resetting" his profile at the expense of other Marines. Furthermore, the Board Minority noted at enclosure (6), the RO's non-concurrence of Petitioner's request to modify the contested fitness report. The Board Minority concluded that Petitioner did not furnish sufficient evidence that establishes a material error or injustice warranting removal or modification of the contested.

MINORITY RECOMMENDATION

In view of the foregoing, the Board Minority recommends that no corrective action be taken on 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. The foregoing action of the Board is submitted for your review and action.

7/19/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Majority Recommendation (Grant Relief)

Reviewed and Approved Board Minority Recommendation (Deny Relief)

9/12/2022

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]