



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

[REDACTED]  
Docket No: 3927-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] USMC

Ref: (a) Title 10 U.S.C. § 1552  
(b) MCO P1610.7F

Encl: (1) DD Form 149 w/attachments  
(2) Fitness Report for the reporting period 20 Jun 12 to 1 Oct 12  
(3) PES Memo 1610 MMRP-30, 25 Oct 21  
(4) CMC ltr 1610 MMRP-13/PERB, 9 May 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 his Fitness Report (Fitrep). See enclosure (2).

2. The Board, consisting of [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 July 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. Petitioner was issued enclosure (2), a Fitrep for a "grade change" reporting occasion. Petitioner was promoted from the grade of first lieutenant (1stLt) to the grade of captain (Capt) with an effective date of 1 October 2012. See enclosure (2).

c. Petitioner contends that the contested Fitrep is in error as the reporting senior is the same grade and, per reference (b), which was in effect at the time of issuance, the Reviewing Officer must indicate in Block K comments, authorization for the RS to function as such.

d. Enclosure (3), an advisory opinion (AO) provided by Manpower Management Division Records and Performance Branch (MMRP-30), determined that the Petitioner's grade in the contested Fitrep was erroneously listed as Capt when his grade should have been listed as 1stLt. As such, MMRP concluded that Petitioner's central contention is moot since he was a 1stLt during the reporting period, and recommended denial of the request.

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e. The Marine Corps Performance Evaluation Review Board (PERB), which took into consideration the unfavorable AO provided by MMRP-30, determined that there was no material error or injustice warranting removal of the contested Fitrep and directed that the Fitrep be retained as filed. See enclosure (4).

#### CONCLUSION

Upon review and consideration of all the evidence of record, the Board determined that the contested Fitrep does warrant partial corrective action. The Board noted that Item 1.e (Grade) in Section A should reflect the former grade (e.g., 1stLt) and not the grade to which they are being promoted. Further, Item 1.f (DOR) should reflect the date of rank for the grade in Item 1.e. However, Petitioner's grade and date of rank in Items 1.e and 1.f on the contested Fitrep are erroneously listed as CAPT and the new captain date of rank of 20121001. Therefore, the Board concluded that Items 1.e must be changed to reflect 1STLT and 1.f as 20101101.

In light of the recommended change, the Board finds there is no material error or injustice warranting removal of the contested Fitrep from Petitioner's official military personnel file. The Board concurred with the AO that no violation of reference (b) occurred since Petitioner was junior in grade to the RS during the reporting period.

#### RECOMMENDATION

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

Petitioner's naval record be corrected by modifying the contested Fitrep at enclosure (2) by changing Item 1.e (Grade) to "1STLT" and Item 1.f (DOR) to "20101101."

That no further changes be made to 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 Block 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Block 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.

8/3/2022

[REDACTED]  
Deputy Director  
[REDACTED]