



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

[REDACTED]
Docket No. 4400-22
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) MCO 1610.7A

Encl: (1) DD Form 149 w/attachments
(2) Fitness Report for the reporting period 14 Jan 20 to 18 Feb 20
(3) E-mail correspondence from Reporting Senior, 2 Dec 21
(4) Advisory Opinion by HQMC MMRP-30, 7 Jan 22
(5) CMC ltr MMRP-13/PERB, 16 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 to modify his Fitness Report (Fitrep) for the reporting period 14 January 2020 to 18 February 2020 by removing Sections D through H, changing it to “not observed” or in the alternative, remove it in its entirety from his official military personnel file.

2. The Board reviewed Petitioner’s allegations of error and injustice on 19 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 of the evidence of record pertaining to Petitioner’s allegations of error or 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 Fitrep for the reporting period 14 January 2020 to 18 February 2020. Sections D through H of the Fitrep consisted of mainly “C” and “D” attribute marks. Section I comments included the following comment: “This is an observed report due to meaningful personal contact as a result of significant increase in observation during Exercise IRON Fist 2020.” The Fitrep generated a relative value of 100.00 at processing, and subsequently decreased to a cumulative relative value of 84.57.

c. Petitioner contends that the Reporting Senior (RS) did not comprehend reference (b), the Performance Evaluation System (PES) Manual. Petitioner also contends the RS used the Fitrep as a means to establish a profile for officers in the grade of Major, and the RS created a skewed profile as this Fitrep is a 33 day [36 days] observed period compared against other Majors who he deployed with and wrote two or more subsequent Fitreps. Enclosure (1).

d. Enclosure (4), the advisory opinion (AO), furnished by the Headquarters Marine Corps Manpower Management Division Records and Performance Branch (MMRP-30) recommended denial of the Petitioner's request. MMRP-30 noted that the contested Fitrep is not deemed negative or adverse and the fact that the initial relative value decreased based on subsequent evaluations processed on grade by the RS does not invalidate the Fitrep. MMRP-30 also noted that the e-mail correspondence from the RS¹ omits any specification to invalidate the Fitrep, and although the RS admitted to a skewed profile, the RS did not admit any actual error or injustice. MMRP-30 concluded that absence any evidence of actual error or injustice, the Fitrep is deemed valid as written.

e. Enclosure (5), the decision made by the Marine Corps Performance Evaluation Review Board (PERB), considered and concurred with the MMRP-30 AO recommendation and determined that there was no probable material error, substantial inaccuracy, or injustice warranting modification or removal of the contested Fitrep. The PERB directed that the contested report be retained as filed.

CONCLUSION

Upon review and consideration of all the evidence of record, to include the AO by MMRP-30 and PERB's decision, the Board finds the existence of an injustice warranting relief. In this regard, the Board was convinced by the Petitioner's contentions, and the RS's admitted skewed profile in his e-mail correspondence. Furthermore, the Board did not concur with the AO and PERB's decision that there was no error or injustice warranting corrective action. The Board determined Petitioner furnished sufficient evidence that establishes an injustice warranting modification of the Fitrep at enclosure (2).

RECOMMENDATION

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

Petitioner's naval record be corrected by modifying enclosure (2), Fitrep for the reporting period 14 January 2020 to 18 February 2020 by removing the RS portions, and in effect making the RS portion not observed.

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.

¹ Enclosure (3), e-mail correspondence from Reporting Senior.

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[REDACTED]

5. The foregoing action of the Board is submitted for your review and action.

8/15/2022



From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Petitioner's Request and Board Recommendation (Grant Relief)

Reviewed and Approved Advisory Opinion Recommendation (Deny Relief)

9/23/2022

