



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

██████████  
Docket No: 5836-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████ XXX XX ██████████  
USMCR

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

Encl: (1) DD Form 149 w/attachments  
(2) Fitness report for the reporting period 7 Oct 18 to 10 Mar 19  
(3) Fitness report for the reporting period 10 Oct 17 to 13 Oct 18  
(4) HQMC memo 1610 MMRP-13/PERB of 1 Aug 22  
(5) ██████████ ltr 1610 of 21 Aug 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 for the reporting period of 7 October 2018 to 10 March 2019.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 13 September 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 record, 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 was issued a fitness report documenting his transition him from the Select Marine Corps Reserves (SMCR) to the Individual Ready Reserves (IRR). In Section I, the reporting senior (RS) commented that, "Due to family and work commitments, MRO will affiliate into IRR." The reviewing officer's (RO) marked Petitioner in block '4' of Section K.3, 'Comparative Assessment'. The same RO processed Petitioner's previous fitness report and marked Petitioner in block '6' of Section K.3. See enclosures (2) and (3).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] XXX XX [REDACTED]  
USMCR

c. Petitioner contends that the reporting official's comments are not congruent or consistent with the attribute marks in Sections D and K.3. Specifically, the RS began Section I comments with a biased, unjust, and negative comment about his decision to transition to the IRR, which is inconsistent with Performance Evaluation System (PES) Manual guidance. Petitioner claimed that over 50 percent of the RS's comments were about his volunteer activities and did not follow the parameters of "additional comments." Petitioner further contends that it took the RO over five months to process the fitness report in comparison to the previous fitness report which took four weeks. Petitioner also claimed that the difference in fitness reports was due to a negative bias against him for transitioning to the IRR. Petitioner further claims that he was unsuccessful in reaching out to the RS. Petitioner argued that the decreased comparative assessment mark from block '6' to block '4' should trigger an automatic counseling, which he never received. Petitioner also argued that all of his fitness reports in the SMCR reflect his hard work and dedication with the exception of the contested fitness report.

d. The Performance Evaluation Review Board (PERB) approved a correction to Petitioner's record by removing the Section I comment, "Due to family and work commitments, MRO will affiliate into IRR." The PERB determined that the RS's comment was deemed "superfluous and should be redacted in an abundance of caution because all Marines that voluntarily transition to the IRR have specific reason(s) for doing so, but the rationale is not required to be documented by the PES Manual." The PERB also determined that Petitioner failed to provide any evidence that his performance and conduct warranted higher marks than received. The PERB concluded that the petition did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of the fitness report in accordance with reference (b). See enclosure (4).

e. In response to the PERB decision, Petitioner contends that the action does not resolve the overall injustice. Petitioner also contends that the PERB's removal of the first Section I sentence proves that an injustice was found. Petitioner argued that the information provided in his application warrants complete removal of the fitness report given the injustice identified by PERB. Petitioner claims that the bias is evident by the pervasive habit of ranking Marines low in RS and RO profiles when a Marine decides to move from the SMCR to the IRR. This bias is systematic and pervasive in the SMCR to boost the rankings of Marines that are staying "loyal to the SMCR." Petitioner asserts that the RO's decrease of his comparative assessment without any justification clearly demonstrates that this common behavior and practice exists.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an injustice warranting partial corrective action.

The Board noted the approved PERB modifications to Petitioner's contested fitness report. The Board found no evidence of bias and the Petitioner provided none beyond his statement. The Board, however, determined that Petitioner's contested fitness report warrants further corrective action. In this regard, the Board also noted that the RO decreased Petitioner's comparative assessment mark from block '6' to block '4'. The Board further noted that pursuant to reference (b), the comparative assessment "mark should be consistent with your RO profile; a MRO you

Subj: REVIEW OF NAVAL RECORD OF [REDACTED] XXX XX [REDACTED]  
USMCR

are assessing in back-to-back reporting periods, and whose performance remains constant, should receive at least the same mark as you assigned to the prior report. In consideration of reference (b) and Petitioner's previous fitness report for the reporting period 1 October 2017 to 13 October 2018, the Board found no evidence that Petitioner's performance was not consistent with his performance during the contested reporting period. The Board also determined that the decreased comparative assessment mark was unjust, thus, the RO portion of the contested fitness report should be change to 'Insufficient' observation. The Board concluded that the balance of the fitness report is valid as modified and Petitioner's evidence was insufficient to warrant removal of the fitness report.

#### RECOMMENDATION

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

Petitioner's naval record be corrected by modifying his fitness report for the reporting period 7 October 2018 to 10 March 2019 by:

- Changing the Section K.1 mark from 'Sufficient' to 'Insufficient'
- Removing Sections K.2 and K.3 marks
- Removing Section K.4 comments

No other changes to Petitioner's 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.

10/14/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]