



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

█
Docket No. 6110-22
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

Encl: (1) DD Form 149 w/attachments
(2) Fitness Report, 1 Jun 21 to 8 Sep 21
(3) Advisory Opinion by HQMC MMRP-30, 17 May 22
(4) HQMC MMRP-13/PERB, 1 Aug 22
(5) Petitioner ltr 1610 GMV, 31 Aug 22
(6) █ USMC ltr 1610 HJC, 31 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 enclosure (2).

2. The Board reviewed Petitioner's allegations of error and injustice on 29 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 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.

b. Petitioner served as a █ Commanding Officer from 5 May 2019 until he was relieved from duty on 8 September 2021. Petitioner received an adverse fitness report, enclosure (2), due to the Station being unable to consistently achieve its contracting mission. Petitioner contends enclosure (2) is unjust and erroneous because the reporting senior (RS) did not provide justification for the adverse nature of the fitness report. Additionally, the RS described Petitioner's actions in a positive manner in Section I, contradicting the adverse nature of the fitness report, and there were no attribute markings in Sections D through H of the fitness

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report marked 'A' for adverse, and the RS did not specifically state that Petitioner was relieved 'for cause,' in violation of the guidance provided in reference (b). Enclosures (1) and (5).

c. Enclosure (3), an advisory opinion (AO) furnished by Headquarters, Marine Corps Performance Evaluation Section (MMRP-30), recommended denying Petitioner's request to remove the fitness report and, per enclosure (4), the Headquarters Marine Corps Performance Evaluation Review Board (PERB) found the fitness report to be in compliance with reference (b), and directed that the contested fitness report be retained as filed.

d. In response to enclosure (4), Petitioner submitted a rebuttal and an advocacy letter from his former RS, who issued the contested fitness report. Petitioner's former RS stated that she clearly made a mistake in relieving Petitioner of command. Further, the RS stated that she committed this error because at the time the fitness report was written she did not have the monthly marketing data, and when she later received the marketing data, the data validated that it was not Petitioner's leadership but a market issue and other adverse impacts beyond Petitioner's control that caused the Station to not meet its mission. The RS further posited that in Fiscal Year 2021, Petitioner's Station outperformed the other [REDACTED]. Finally, the RS wrote that the current [REDACTED] policy is that no personnel will be relieved for missing mission unless that Marine did something illegal, immoral, unethical, or apathetic. The RS confirmed that Petitioner did not commit any violations and that it would be unjust for the adverse fitness report to remain in Petitioner's record. Enclosures (5) and (6).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board determined that Petitioner's request warrants relief. In this regard, the Board noted that Petitioner's former RS, who issued the contested fitness report wrote an in-depth letter with supporting documentation, endorsing Petitioner's request; specifically indicating the errors that were made in the fitness report and providing additional information to demonstrate the fitness report is unjust and warrants removal. Moreover, the RS advocacy letter at enclosure (6) was not available for consideration when the PERB determined that the fitness report was valid. Lastly, the AO specifically noted in its recommendation to deny was based primarily on the fact that Petitioner did not have an endorsement from the fitness report's reporting officials.

In view of the foregoing, the Board determined that Petitioner's former RS provided sufficient evidence that it was an error to relieve Petitioner of command and to issue the contested adverse fitness report. The Board thus concluded that it is unjust to remain in Petitioner's official military personnel file.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2), the fitness report for the reporting period 1 June 2021 to 8 September 2021.

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That no further correction 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.

11/4/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board recommendation (Grant Relief)

Reviewed and Approved Advisory Opinion Recommendation (Deny Relief)

11/22/2022

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]