



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

██████████
Docket No. 7850-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████, USN, XXX-XX-██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) MILPERSMAN 1611-020
(c) BUPERSINST 1610.10F

Encl: (1) DD Form 149 w/attachments
(2) Cmdr, ██████████ ltr 1611 Ser N00J/036, 7 Mar 22
(3) Petitioner ltr, 16 Mar 22
(4) First Endorsement, 1611 Ser N00j/073, 30 Mar 22
(5) DCNP ltr 1611 BUPERS-00B/468, 11 Jul 22
(6) CNPC ltr 1920 Ser 834/465, 22 Jul 22
(7) Fitness Report & Counseling Record, 1 May 21 to 3 Feb 22
(8) Advisory Opinion by BUPERS-00J Memo, 21 Nov 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 the Detachment for Cause (DFC) and all references pertaining from his official military personnel file (OMPF).

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 5 December 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. On 7 March 2022, ██████████ (2), requested Petitioner be detached for cause from ██████████ due to loss in confidence in his ability to serve as Executive Officer (XO) based upon the results of an investigation which determined that he, the Commanding Officer, and the Command Master

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Chief failed to adequately investigate or address allegations of misconduct based upon a recent Defense Organizational Climate Survey (DEOCS). Enclosure (2).

c. On 16 March 2022, Petitioner provided a response to the request for DFC wherein he highlights that in accordance with reference (b), loss of confidence as a reason to detach for cause only for those officers billeted in a command position to include executive officers in an automatic fleet up position. Petitioner states that he was serving in a non-fleet up executive officer billet and therefore did not concur with the DFC. Enclosure (3).

d. On 30 March 2022, Commander, ██████████ forwarded the request for DFC clarifying that he believed the DFC was justified under section 3.b. (substandard performance) of reference (b) based upon the facts articulated in his original request. Enclosure (4).

e. On 11 July 2022, the Deputy Chief of Naval Personnel (DCNP) reviewed and approved Petitioner's DFC. Enclosure (5).

f. On 22 July 2022, Commander, Navy Personnel Command (PERS-834), notified Petitioner that the Show Cause Authority determined the incident reported did not require Petitioner to show cause for retention in the naval service. Enclosure (6).

g. Petitioner was issued enclosure (7), a Periodic/Regular Fitness Report and Counseling Record (FITREP) for the reporting period 1 May 2021 to 3 February 2022. Block 41 of this FITREP references Petitioner's relief as XO duties for loss of confidence.

h. Enclosure (8), the advisory opinion (AO) furnished by the Office of Legal Counsel (BUPERS-00J) noted that Petitioner has established an error and injustice. The AO noted that in accordance with reference (b), Petitioner was in a non-fleet up XO billet, and thus section 3.d. of the order did not apply to him. In consideration of all the evidence, BUPERS-00J determined the contested DFC at enclosure (2) was submitted in error, and recommends it be removed from Petitioner's OMPF. The AO further notes that even with the removal of the DFC, the FITREP is valid and should remain in Petitioner's record. The AO notes that removal from a leadership position should be noted and explained in accordance with reference (c) and that the reporting official did not mention the DFC in the FITREP.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the AO, the Board finds the existence of an error warranting corrective action. The Board noted that Petitioner furnished sufficient evidence that his DFC was not in accordance with the references and that the DFC should not have been approved. The Board also concurred with the AOs recommendation that the FITREP remain in Petitioner's OMPF. The Board, however, determined that since Petitioner's DFC was improper, the sentence "[m]ember assigned TAD to ██████████ since 4 February 2022 after Commander, ██████████ relieved him of XO duties for loss of confidence" shall be removed from Block 41 of the FITREP at enclosure (7).

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Thus, the Board substantially concurred with the AO that the DFC was submitted in error, and concluded that it and all related material shall be removed from Petitioner's OMPF, and his FITREP be modified as noted above.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing all material related to Petitioner's DFC, to include enclosures (2) through (6).

Petitioner's naval record be corrected by redacting from Block 41 of his FITREP at enclosure (7) "Member assigned TAD to [REDACTED] since 4 February 2022 after Commander, [REDACTED] relieved him of his XO duties for loss of confidence."

Any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record, and that no such entries or material be added to the record in the future. This includes, but is not limited to, all information systems or database entries that reference or discuss the expunged material.

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 Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 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.

1/5/2023

