



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

█
Docket No. 8186-22
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) Title 10 U.S.C. § 1552
(b) MCO 1610.7A (PES Manual)
(c) MCO 6100.13A CH 3

Encl: (1) DD Form 149 w/enclosures
(2) Detachment Cmdr ltr 3500/S-3, 27 Sep 22
(3) Administrative Remarks (Page 11) counseling entry, 23 Jun 22
(4) Fitness Report for the reporting period 1 Apr 22 to 5 Jul 22
(5) Petitioner BTR/Training History

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 remove enclosures (3) and (4).

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 24 January 2023, 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 the 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, finds as follows:

a. Before applying to this Board, Petitioner exhaust all administrative remedies available under existing law and regulations within the Department of the Navy with the exception of his request to remove his Fitrep. Specifically, Petitioner has not petitioned the Headquarters Marine Corps Performance Evaluation Review Board (PERB), as required by reference (b). As such, the Board did not consider this portion of Petitioner's request.

b. On 22 June 2022 Petitioner participated in and failed to pass an official physical fitness test (PFT) due to a purported injury incurred during the run portion. Petitioner's failing PFT score was entered into his record despite receiving medical attention for the injury on 22 June 2022. Enclosures (2), (3), and (4).

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c. On 23 June 2022 Petitioner was issued enclosure (3), a Page 11 counseling him for failing his PFT. Petitioner acknowledged the entry and chose not to submit a rebuttal statement.

d. Petitioner was issued enclosure (4), an adverse Fitrep for the reporting period 1 April 2022 to 5 July 2022 as a result of his failed PFT and issuance of the 6105 counseling. Petitioner's Reporting Senior also recommended he not be promoted with his contemporaries. Petitioner acknowledged the adverse nature of the Fitrep and did not submit a statement.

e. On 27 September 2022 Petitioner's Detachment Commander directed the Installation Personnel Administration Center to take action on the Petitioner's record by removing the "fail/required did not take" (Fail/RNT) entry and replacing it with a "Partial" entry due to his injury received during the running portion of the PFT. Enclosure (2).

f. Petitioner contends the counseling entry was improperly issued even though he was treated for an injury incurred during the PFT. He argues that the PFT has been properly reported in Marine Online and any derogatory material issued prior to the corrected record should be removed or corrected. Petitioner asserts that the derogatory material can prevent him from being promoted and the entry is incorrect due to the fact that what should have been a partial PFT was ran incorrectly as a failure.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting partial relief. In this regard, the Board determined that Petitioner submitted sufficient evidence to support his contention that he was injured during the PFT, that he was treated by the appropriate medical personnel in accordance with reference (c), and that the evidence of record does not support the matters of the counseling entry. The Board therefore, deemed the entry was issued in error in light of the Petitioner's injury and subsequent action by the command to correct his record by removing the PFT failure and inserting credit for a partial PFT. The Board further noted the effected change on the Petitioner's training history provided at enclosure (5) and determined those entries would be a permanent part of the Petitioner's record. The Board concluded that the contested counseling entry shall be removed from the Petitioner's official military personnel file.

With regards to the Petitioner's request for removal of the adverse Fitrep, as noted above, the Board determined Petitioner must first petition the PERB in accordance with reference (b).

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (3), his 23 June 2022 Page 11 counseling entry.

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

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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 Regulation, 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.

2/22/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]