



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

██████████
Docket No. 8327-22
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

Encl: (1) DD Form 149 w/attachments
(2) CMC ltr 1610 MMRP-13/PERB, 15 Jul 22
(3) HQMC memo 1610 MMRP-50, 24 Oct 22

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting to remove his failures of selection (FOS).
2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 17 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 Petitioner's naval records, and applicable statutes, regulations, and policies.
3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. On 2 February 2022 Petitioner submitted an application to the Marine Corps Performance Evaluation Review Board (PERB) requesting to modify his fitness report for the reporting period 3 October 2020 to 31 May 2021 by changing the reporting senior (RS) portion of the report to be not observed due to insufficient observation. On 15 July 2022, the PERB approved the correction to Petitioner's record and changed the RS portion of the fitness report to not observed. Enclosure (2).
 - b. In a memorandum dated 24 October 2022, Headquarters Marine Corps (MMRP-50) provided an advisory opinion (AO) for the Board's consideration, recommending that Petitioner's second FOS during Fiscal Year 2023 be removed. In this regard, the AO determined that the changes made to Petitioner's fitness report met the threshold for a positive correction that is significant enough to have altered the promotion board's decision. The AO also determined that the erroneous report negatively skewed the RS cumulative values. Correcting the fitness report changed the overall RS percentages in Petitioner's favor. The AO concluded that these changes would have improved the perception of competitiveness, had the record been correct when the promotion board convened. Enclosure (3).
 - c. In his application, Petitioner explained that the reporting period was 240 days, however, due to permanent change of station leave, restricted movement requirements, the RS's temporary duty assignments, and annual leave, he physically saw his RS on four occasions, equating to less than five hours. Enclosure (1).

CONCLUSION

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

The Board substantially concurred with the AO that the correction to Petitioner's fitness report changed the overall RS percentages in Petitioner's favor and these changes would have improved the promotion boards' perception of his competitiveness. The Board noted that Petitioner took no action to correct his record until after the failing selection during FY 2022 and FY 2023, therefore the Board concurred with the AO's recommendation to remove the FY 2023 FOS.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing his failures of selection incurred during the FY 2023 Marine Corps Lieutenant Colonel Promotion Section Board.

That part of the Petitioner's request for corrective action that exceeds the foregoing be denied.

That no further changes be made to 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. 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.

1/30/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]