



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

[REDACTED]
Docket No. 62-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1610.10E

Encl: (1) DD Form 149 w/attachments
(2) Fitness Report & Counseling Record, 1 Oct 21 to 20 May 22
(3) Advisory opinion by NPC (PERS-32), 9 Jan 23

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, consisting of [REDACTED], [REDACTED], and [REDACTED] 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 regulation within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Petitioner was issued enclosure (2), a Detachment of Reporting Senior/Regular fitness report for the period 1 October 2021 to 20 May 2022 while serving as a Staff Officer for the Chief of Naval Operations, [REDACTED], [REDACTED]. Petitioner was marked "Below Standards" in Block 35 for performance trait Military Bearing/Character. Comments under Block 41 further stated that "[m]ember plead guilty to Article 113 at Admiral's Mast on 8 February 2022, awarded a Letter of Reprimand. Nonjudicial Punishment concluding date was 28 March 2022."

b. Petitioner contends that the Reporting Senior (RS) inserted prohibited derogatory language/information into Block 41 of the contested fitness report, in violation of reference (b), which affords members the opportunity to sign and submit a rebuttal response for adverse fitness reports. Petitioner also contends that although he was present at the command and available, he was not asked to sign the adverse fitness report. Enclosure (1).

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c. The advisory opinion (AO) at enclosure (3), furnished by the Navy Personnel Command (PERS-32), noted that the fitness report is adverse, but not signed by the Petitioner. Instead, the RS annotated "Certified Copy Provided" in Petitioner's signature block, in violation of reference (b). The AO recommended removal of the contested fitness report and replacement with a memorandum of continuity.

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 the contested fitness report is procedurally in error, and it was submitted for inclusion in his official military personnel file (OMPF) in violation of reference (b). The Board thus concurred with the AO that the contested fitness report shall be removed from Petitioner's OMPF.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2), his fitness report for the reporting period 1 October 2021 – 20 May 2022, and that it be replaced with a memorandum of continuity.

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.

2/16/2023

[REDACTED]