



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

█
Docket No. 8481-23
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 P1400.31C w/CH 1
(c) SECNAVINST 1402.1

Encl: (1) DD Form 149 w/enclosures
(2) Fitness Report for the reporting period 1 Jul 20 to 7 May 21
(3) CMC ltr 1610 MMRP-13/PERB of 13 Feb 23
(4) HQMC Memo 1610 MMPB-24 of 17 Oct 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 his failures of selection incurred during the Fiscal Year (FY) 2023 and FY 2024 Marine Corps Active Duty Lieutenant Colonel (LtCol/O-5) Promotion Selection Boards (PSB). Petitioner also request a Special Selection Board (SSB).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 7 November 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. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found that, before applying to this Board, Petitioner exhausted all administrative remedies, with the exception of his request for a SSB. Therefore, the Board only considered Petitioner's request to remove his failures of selection.

a. Petitioner was issued a fitness report for the reporting period 1 July 2020 to 7 May 2021. On 13 February 2023, the Performance Evaluation Review Board (PERB) directed the modification of Petitioner's fitness report by changing the comparative assessment to block 6 (Exceptionally Qualified Marines) instead of block 5 (One of the Many Highly Qualified). Enclosures (2) and (3).

b. The advisory opinion (AO) provided by Headquarters, Marine Corps (MMPB-24),

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recommended removal of Petitioner's failures of selection. The AO noted that Petitioner's aforementioned fitness report contained inaccurate material and was present in Petitioner's record at the time of convening the FY 2023 and FY 2024 PSBs. The AO determined that the correction of the fitness report meets the threshold for a positive correction significant enough to have potentially altered any PSB's decision. The AO also determined that the change in the record is significant and could have improved the perception of Petitioner's competitiveness had the record been correct at the time of the board's convening. Enclosure (4).

c. In his application, Petitioner contends there was a material error of fact in his record that both PSBs considered. Petitioner claims that both non-selections were caused by the presence of the same fitness report which have now been correct by the PERB. The Board found no evidence Petitioner previously requested a SSB prior to applying to this Board.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warranting partial relief.

In this regard, the Board noted that the PERB directed a correction to Petitioner's record by increasing the comparative assessment mark in Petitioner's fitness report at enclosure (2). The Board substantially concurred with the AO that the correction to Petitioner's record constituted a substantive change that may have potentially altered the PSBs perception of Petitioner's competitiveness. The Board concluded that Petitioner's FY 2023 and FY 2024 failures of selection should be removed.

Concerning Petitioner's request for a Special Selection Board (SSB), the Board determined that Petitioner has not exhausted his administrative remedies by requesting a SSB via the Marine Corps Officer Promotion Branch (MMPB-10) in accordance with the references (b) and (c).

RECOMMENDATION

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

Petitioner's naval record be corrected by removing his failures of selection incurred during the FY 2023 and FY 2024 Active Duty Marine Corps LtCol PSBs.

No further correction to Petitioner's 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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

11/21/2023

