



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

██████████
Docket No. 8052-23
Docket No. 9271-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████
██████████ USMC

Ref: (a) 10 U.S.C. § 1552
(b) MCO 1610.7A

Encl: (1) DD Form 149 w/enclosures (Docket No. 8052-23)
(2) DD Form 149 w/enclosures (Docket No. 9271-23)
(3) Petitioner's Master Brief Sheet
(4) Fitness Report for the reporting period 21 May 22 to 31 Oct 22
(5) CMC ltr 1610 MMPB-21D/PERB of 31 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 (FOS) incurred by the Fiscal Year (FY) 2023 and FY 2024 Active Duty USMC Captain Promotion Selection Boards (PSB).

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's enclosure (1) application on 17 October 2023. Petitioner's allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of Docket No 8052-23, together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies.

The Board considered Petitioner's contention that he was wrongly passed for promotion by the FY23 PSB while still attending Military Occupational Specialty (MOS) School, and that he only had one observed fitness report. Petitioner also contended that he was improperly briefed in the 7315 MOS vice 7318 by the FY 2024 PSB, and that he has not fulfilled his obligated service from his original contract. The Board determined Petitioner was eligible and properly considered by both the FY 2023 and FY 2024 PSBs, and that his contentions were without merit.

3. Prior to approval of Docket No. 8052-23, and pursuant to the provisions of reference (a), Petitioner filed enclosure (2) with the Board, requesting that his naval record be corrected by removing his FOS incurred by the FY 2024 Active Duty USMC Captain PSB.

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4. The Board, consisting of [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice for Docket No. 9271-23 on 3 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.

5. 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. From 10 September 2018 through 20 May 2022, Petitioner was issued a total of five not-observed fitness reports while in a student status. Enclosure (3).

b. Petitioner was issued the Semi-Annual (SA) fitness report at enclosure (4) for the reporting period 21 May 2021 to 31 October 2021. Petitioner failed selection by the FY 2023 and FY 2024 Active Duty USMC Captain PSBs. This fitness report was available for consideration by the FY 2024 USMC Captain PSB when Petitioner failed selection.

c. On 31 October 2023, the Performance Evaluation Review Board (PERB) directed modification of the SA fitness report by changing the mark in Section D.1 (Performance) from block "C" to block "D" and the mark in Section F.1 (Leading Subordinates) from block "C" to block "D." Enclosure (5).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants relief. In this regard, the Board noted that the PERB made a substantial modification of the Petitioner's record by modifying the fitness report at enclosure (4). The Board determined that the FY 2024 USMC Captain PSB was not presented with an accurate representation of the Petitioner's performance due to errors in his official military personnel file and the change may potentially alter the Promotion Board's decision.

The Board also noted that although the five not-observed fitness reports he received while in a student status were not in error, the Board determined Petitioner was at a disadvantage by not having any observed fitness reports when considered by the FY 2023 USMC Captain PSB, and concluded that Petitioner should also be granted additional relief by removing the FY 2023 FOS so he will be considered by the next convening PSB as an officer who has not previously failed selection. The Board thus concluded that Petitioner's FY 2023 and 2024 failures of selection shall be removed from his record.

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RECOMMENDATION

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

Petitioner's naval record be corrected by removing his FOSs incurred by the FY 2023 and FY 2024 Active Duty USMC Captain Promotion Selection Boards.

6. 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.

7. 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.

11/6/2023

