



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

[REDACTED]  
Docket No. 2270-16  
JUL 25 2017

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

Subj: REVIEW OF NAVAL RECORD ICO  
[REDACTED] XXX XX [REDACTED] USMC

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Service Record (excerpts)  
(3) Fitness report for period ending 20140225  
(4) HQMC memo 1610 MMRP-13/PERB of 8 Mar 16  
(5) Copy of Revised page 10 of IGMC case #12465

1. Pursuant to the provisions of reference (a) ), Petitioner, a commission officer of the Marine Corps, filed enclosure (1) with this Board requesting, in effect, that his record be corrected by removing his fitness report covering the period from 20140106 to 20140225 (FD) from his Official Military Personnel File (OMPF) and that he be given credit for completing the Staff Non-Commissioned Officer Academy Career Course. Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 April 2017 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, 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 exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was submitted in a timely manner.

c. Petitioner received an adverse non-observed fitness report ending, due to being disenrolled from a Career Course, class 2-14 for "demonstrating a lack of academic integrity by violating the plagiarism policy outlined in Chapter 2 of the Marine Corps University Education Command Staff Regulations." See enclosure (3).

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d. Per Petitioner's Reporting Officer's (RO) comments, he concurs with the adverse nature of the report. The RO further states "MRO was the subject of a student Performance Evaluation Board where he was found to be complicit in the sharing of graded material (plagiarism) that was submitted as an individually submitted graded assignment." See enclosure (3).

e. Petitioner submitted a rebuttal to the fitness report alleging that upon arriving at the Career Course, all the students received a brief by the Staff Non-Commissioned Officer in Charge (SNOCIC) on the academy's plagiarism policy. He alleges that the brief was confusing because it contradicted what the academy's written standard operating procedures. The Faculty Adviser (FA) told them that as long as the students were in the FA's room, and the FA was present, they could collaborate on assignments. Petitioner further alleges that the students throughout the course were often called upon to teach the class. Upon the start of receiving infantry assignments, the class immediately came to him for assistance, which he gave them the knowledge they needed to complete the assignments. Petitioner completed the assignment for the class and turned it in. Petitioner was accused of violating the plagiarism policy, and brought up before the Student Performance Evaluation Board (SPEB). He tried to explain to Academy that assignment was completed in the same manner as all the other assignments completed, according to the guidance given them by the FA. See enclosure (3).

f. Enclosure (4) submitted by the office having cognizance over the subject matter addressed in Petitioner's application, commented to the affect that Petitioner's request to remove the fitness report does not warrant favorable action because the contested report is administratively and procedurally correct as written and Petitioner failed to meet the burden of proof necessary to establish an inaccuracy or injustice warranting removal.

g. As part of Petitioner's BCNR application, he submitted a rebuttal to the Performance and Evaluation Review Board's (PERB) advisory opinion. He submitted a Freedom of Information Act (FOIA) request for a copy of the Inspector General of the Marine Corps (IGMC) case #12465. The original IGMC case #12465, which included Petitioner as a member of the investigation had his name redacted in paragraph 11.c. of page 10. The IGMC in response to Petitioner's FOIA request submitted a copy of revised page 10 showing paragraph 11.c., which recommends Petitioner retroactively receives his diploma and that he officially graduated from the course without prejudice. It also recommends that all adverse administrative materials be removed from his records.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

Petitioner met the burden of proof necessary to establish an inaccuracy or injustice warranting removal of the contested report. Specifically, he met the recommended burden of proof necessary to establish an inaccuracy or injustice warranting removal of the fitness report from his OMPF, by producing the corrected copy of the IGMC case #12465 showing that the accusation

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against him was without merit and unsubstantiated. According to the IGM case #12465, "The staff of the SNCOA failed to clearly annotate in writing that collaboration was not allowed on this assignment. This oversight effectively created an expectation in the minds of the students, that they could legitimately discuss the assignment in an open forum."

RECOMMENDATION:

That Petitioner's naval record be corrected by removing the following enlisted fitness report and related material.

Date of report

Reporting senior

Period of report

20140424.


From: 20140106 to 20140224

That there be inserted in Petitioner's naval record a memorandum in place of the removed report, containing appropriate identifying data concerning the report; that such memorandum state that the report has been removed by order of the Secretary of the Navy in accordance with the provisions of federal law and may not be made available to selection boards and other reviewing authorities; and that such boards may not conjecture or draw any influences as to the nature of the report.


Petitioner completed and graduated from Career Course, Class 2-14, receiving his diploma upon graduation.

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 be added to the record in the future.

4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true complete record of the Board's proceedings in the above entitled matter.

  
Recorder

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.

  
Executive Director