



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

[REDACTED]
Docket No. 8525-16
JUL 16 2017

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

Subj: REVIEW OF NAVAL RECORD IC [REDACTED]
[REDACTED] USMC [REDACTED]

Ref: (a) Title 10 U.S.C. §1552

Encl: (1) DD Form 149 w/attachments
(2) Service Record (excerpts)
(3) HQMC memo 1610 MMRP-13/PERB of 19 Sep 16

1. Pursuant to the provisions of reference (a) Petitioner, a gunnery sergeant in the U.S. Marine Corps, filed enclosure (1) with this Board requesting that fitness report dated 20130627, covering the period 20130620-20130627, be removed from his Official Military Personnel File (OMPF). Enclosures (1) through (3) apply.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 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. In addition, the Board considered enclosure (3) furnished by Headquarters Marine Corps (MMRP-13/PERB) a copy of which was previously sent to Petitioner on 19 September 2016.

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 filed in a timely manner.

c. Enclosure (3) 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.

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d. After reviewing the record and documentation provided by the Petitioner, the Board noted Petitioner was given a 6105 counseling (Page 11) indicating what he was being counseled for and the recommended corrective action he was given to seek help. The Board further noted that the fitness report dated 20130627 was an adverse non-observed report, which merely sought to relay what the Page 11 had already done. Furthermore, the Board found that Petitioner in his rebuttal statement to the Page 11 had accepted full responsibility, stated he had corrected his leadership style and had attended the Staff Non-Commissioned Officer Academy (SNCOA), Advance Course.

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 corrective actions of the Page 11 and took responsibility for his actions. Per MCO P1610.7F paragraph 3004.2.d(3) MWSS- [REDACTED] MAG [REDACTED] MAW used the adverse non-observed fitness report in lieu of disciplinary action.

RECOMMENDATION:

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

Date of report
20130815

Reporting senior
[REDACTED]

Period of report
From: 20130620 to 20130627

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.

4. It is certified that a 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.

[REDACTED]
Recorder

Subj: REVIEW OF NAVAL RECORD ICC [REDACTED]
[REDACTED] USMC

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.

[REDACTED]
Executive Director