



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

[REDACTED]
Docket No: 5470-17

DEC 27 2017

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

Subj: REVIEW OF NAVAL RECORD IC [REDACTED] XXX XX [REDACTED] JSMC

Ref: (a) 10 U.S.C. § 1552

Encl: (1) DD Form 149
(2) HQMC (MMRP-13/PERB) Memo of 5 May 17
(3) HQMC (MMRP-50) Memo of 14 Jun 17

1. Pursuant to the provisions of reference (a), Petitioner, a Chief Warrant Officer in the Marine Corps, filed enclosure (1) with this Board requesting that the fitness reports covering the period from 1 May 2014 to 24 August 2014 and 25 August 2014 to 31 May 2015 be removed from his Official Military Personnel File (OMPF). He also impliedly requested that his failure of selection (FOS) by the FY16 and FY17 Chief Warrant Officer Selection Boards be removed from his OMPF.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 8 November 2017, and pursuant to its regulations, determined that the partial 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. In addition, the Board considered the action taken by Headquarters Marine Corps (MMRP-13/PERB) Memorandum dated 5 May 2017 and MMRP-50 Memorandum dated 14 June 2017. Enclosures (1) through (3) apply.

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. Petitioner was issued a Change of Reporting Senior (CH) fitness report for the reporting period 1 May 2014 to 24 August 2014 and a Transfer (TR) fitness report for the reporting period 25 August 2014 to 31 May 2015.

c. On 5 May 2017, the PERB took the following corrective actions: regarding the fitness report covering the period 1 May 2014 to 24 August 2014, removed the Section K review in its

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entirety. Regarding the fitness report covering the period 25 August 2014 to 31 May 2015, the fitness report was removed from the Petitioner's OMPF. See enclosure (2).

d. Enclosure (3) states in part, that because the removed materials could reasonably have been expected to create negative perceptions for the subject selection boards, notwithstanding other recorded performance, it is reasonable to conclude that the selection board outcomes may have been different. Therefore, recommended the removal of the Petitioner's FOS by the FY16 and FY17 Chief Warrant Officer Selection Boards. See enclosure (3).

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of enclosures (2) and (3), the Board finds the existence of an injustice warranting partial corrective action. The Board determined that the PERBs actions as stated in the AO was sufficient to address the Petitioner's contentions regarding his two FITNESS Reports.

RECOMMENDATION

Petitioner's naval record be corrected by removing his FOS incurred by the FY16 and FY17 Chief Warrant Officer Promotion Selection Board.

Petitioner's naval record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to major as an officer who has not failed selection for promotion to that grade.

That no further relief be granted.

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.

[REDACTED]
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 Regulation, 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