



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

[REDACTED]  
Docket No: 6181-17  
JAN 05 2018

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

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

Ref: (a) 10 U.S.C. §1552

Encl: (1) [REDACTED] ltr of 17 Jul 17  
(2) Fitness Report covering the period from 20140711 – 20150511  
(3) HQMC memo 1610 MMRP-13/PERB of 30 Sep 15

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the Marine Corps, filed enclosure (1) with this Board requesting reconsideration of his previously denied request for removal of his fitness report for the reporting period 11 July 2014 to 11 May 2015 from his Official Military Personnel File (OMPF).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 December 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, relevant portions of Petitioner's naval records and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion (AO) provided by the Headquarters, Marine Corps Performance Evaluation Review Board (PERB).

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 had not been counseled or debriefed on the hazing findings in a 2014 command investigation. The 2014 command investigation, which began as an investigation into allegations of adultery between a staff noncommissioned officer (SNCO) and the wife of a junior Marine, uncovered isolated hazing incidents between the SNCO and the junior Marine.

c. In 2015, Petitioner reported concerns involving members of Engineer Company which led to the initiation of a command investigation (CI). The Investigating Officer (IO) was never provided a copy of the 2014 command investigation but assumed Petitioner had been debriefed

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on the results of the 2014 command investigation. The 2015 CI documented various instances of hazing. The IO opined that Petitioner should have recognized indicators of a chronic hazing problem and recommended a change of command at the earliest time possible. Based on the IO's recommendation, Petitioner was relieved of command with less than four days left at the command prior to his scheduled permanent change of station to Bahrain.

d. The contested fitness report is factually inaccurate; Petitioner was not counseled about the hazing findings in the 2014 CI.

e. In correspondence attached as enclosure (3), the office having cognizance over the subject matter addressed in Petitioner's application has commented that Petitioner failed to meet the burden of proof necessary to establish an inaccuracy or injustice warranting removal of the report.

#### CONCLUSION

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

The Board did not concur with the PERB's AO. The Board determined Petitioner was not counseled or debriefed on the 2014 command investigation, and the contested report, which stated he was, is factually inaccurate. The Board concluded it is unjust for the contested fitness report to remain in Petitioner's OMPF.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

Petitioner's naval record be corrected by removing the fitness report for the reporting period 11 July 2014 to 11 May 2015.

Insert 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.

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XXX XX [REDACTED] USMC

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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. The foregoing action of the Board is submitted for your review and action.

[REDACTED]  
Executive Director

Reviewed and Approved // ~~Disapproved~~

[REDACTED]  
3/8/2018