



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

[REDACTED]
Docket No: 7375-17

JAN 11 2018

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USN, [REDACTED]

Ref: (a) 10 U.S.C. §1552

Encl: (1) DD Form 149 with attachments
(2) [REDACTED] email dtd 6 Dec 2017

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Navy, filed enclosure (1) with this Board requesting reconsideration of his previously denied request for a back-dated promotion to the date he would have been promoted if the adverse evaluation covering 16 July 2014 to 15 July 2015 had not been improperly altered. Additionally, Petitioner requested the Board grant him a second promotion due to the multiple advancement cycles he missed. Enclosures (1) and (2) apply.

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) furnished by the Enlisted Advancements Branch (PERS 803), a copy of which is provided as enclosure (2).

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 spearheaded a request for help that was signed by 25 sailors in the command which resulted in a command climate survey and command investigation. The survey and investigation substantiated allegations that a hostile work environment, in which senior enlisted leadership manipulated evaluations and sexually harassed junior service members, existed at the command. As a result of the investigation, three senior leaders were removed from the clinic. Two senior leaders that remained after the investigation threatened and followed through with retaliation against Petitioner. Per Petitioner's statement, the command unsuccessfully attempted

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to administratively separate Petitioner and, with the aid of legal counsel and an inspector general, Petitioner was instead removed from the hostile work environment and given his choice of duty station.

c. This Board previously granted Petitioner relief in the form of removing an evaluation report covering the period 16 July 2015 to 5 July 2016, expunging all documentation associated with a Physical Fitness Assessment (PFA) failure on 20 May 2015, and correcting Petitioner's evaluation report covering 16 July 2014 to 15 July 2015 to reflect "EP" vice "MP".

d. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action. Specifically, PERS-803 stated "If the EP evaluation was the only evaluation the member had prior to taking the September 2015 exam, the member would have advanced with a Final Multiple Score (FMS) of 125.74 vs 109.74."

CONCLUSION

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

The Board believes it is error and unjust for Petitioner to not receive a back-dated promotion for the September 2015 advancement cycle based on his revised FMS.

The Board noted there was no evidence in the record, and Petitioner did not provide any, to substantiate Petitioner's request for a second promotion. Specifically, Petitioner is currently not eligible for an additional promotion because he has not completed the required exam for advancement to E-5.

RECOMMENDATION

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

Petitioner receive a back-dated promotion to E-4 based on his FMS in the September 2015 advancement cycle and be paid all back pay and allowances.

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

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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