



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

██████████  
Docket No. 9770-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████  
XXX XX ██████████ USMC

Ref: (a) 10 U.S.C. § 1552  
(b) JAGMAN  
(c) MCO 1610.7A

Encl: (1) DD Form 149 w/enclosures  
(2) Transfer Fitness Report for the reporting period 28 May 22 to 14 Feb 23  
(3) CG, ██████████ Complaint of Wrongs ICO ██████████ of 18 May 2023  
(4) CG, ██████████ Complaint of Wrongs ICO ██████████ of 18 May 2023  
(5) CG, ██████████ Complaint of Wrongs ICO ██████████ of 18 May 2023  
(6) Deputy, ██████████ (Case ██████████) ltr 5041 ██████████ of 20 Oct 23  
(7) Deputy, ██████████ (Case ██████████) ltr 5041 ██████████ of 4 Dec 23  
(8) Deputy, ██████████ (Case ██████████) ltr 5041 ██████████ of 4 Dec 23  
(9) PES Memo 1610 MMRP-30 of 16 Jun 23  
(10) CMC ltr 1610 MMRP-13/PERB of 21 Jul 23

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected by removing his fitness report at enclosure (2).

2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 5 March 2024, 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.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. Petitioner was issued a Transfer (TR) Fitness Report for the reporting period 28 May 2022 to 14 February 2023. The fitness report's relative value and cumulative relative value is 80.00. See Enclosure (2).

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c. On or around 30 March 2023, Petitioner submitted three Article 1150, complaint of wrongs to the Commanding General (CG), [REDACTED]. In his complaints, Petitioner contends his RS failed to place Petitioner in command positions and that all of his peers had since been appointed to Company Command and Executive Officer positions throughout the Recruit Training Regiment (RTR). He also asserts that he was regressing in his assigned responsibilities and he had not received any type of counseling or feedback from his RS. Petitioner also asserted that, upon receipt of his transfer fitness report, he saw further evidence that he was not being genuinely evaluated during his time in Support Battalion and that he was “simply holding a position until he could be transferred.”

d. On 10 April 2023, in the RS’ response to Petitioner’s complaint, he mentions that he had counseled Petitioner on several occasions and that he “had no intention of providing Petitioner with a low, nor adverse fitness report...however, following the counseling in which Petitioner acknowledged his opinion (even though he disagreed with it), that he demonstrated, “unprofessional (i.e., arrogant) communication in the conduct of (his) engagement with senior leadership, particularly (his) RS and Battalion Commander.”

e. On 18 May 2023, the Commanding General adjudicated all three of Petitioner’s complaint of wrongs and determined the complaints lacked merit. In regards to the allegations against Petitioner’s RS, the CG determined there was no evidence that the RS acted arbitrarily, abused his discretion, or was unjust towards the Petitioner. Nor could she find any evidence that the RS violated any law or regulation and summarized the interactions between the RS and Petitioner as professional disagreements. Despite the findings, the CG offered Petitioner a transfer to [REDACTED] as partial redress to provide him the opportunity at a fresh start with reassignment at the discretion of the Battalion Commander. See Enclosures (3), (4), and (5).

f. On 20 October and 4 December 2023, Headquarters, Marine Corps Inspector General (IGMC) considered all three of Petitioner’s complaint of wrongs, determined they did not meet the requirements for an investigation, and considered each matter to be closed. See Enclosures (6), (7), and (8).

g. Petitioner contends that his Reporting Senior (RS) intentionally marked the performance attributes in a manner that ensured the TR fitness report would be at the bottom of his profile out of reprisal against the Petitioner for utilizing protected communications and not as a result of performance during the reporting period. He further contends that the formal redress of wrongs was made known to the RS during the reporting period which should have been grounds to preclude the RS from writing the contested fitness report. He also asserts that a redress of wrongs is not the proper channel for removal of a fitness report and highlights the CG’s decision to grant Petitioner redress based upon the inimical relationship between Petitioner and the RS as evidence as to why the fitness report should be removed.

h. The advisory opinion (AO) furnished by the Manpower Management Division Records & Performance Branch (MMRP-30) recommended that Petitioners request be partially granted. In

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this regard, the AO notes that Petitioner submitted complaints of wrong, which were fully adjudicated by the CG who did not find a preponderance of the evidence substantiated the allegations of reprisal. The AO further noted Petitioner's contention regarding reprisal lacked sufficient merit to invalidate the contested fitness report nor warrant its removal from his official record. However, the AO noted although it was not specifically referenced by the Petitioner, the RO included a negative and/or limiting comment in Section K.4 that should be redacted as partial relief. Despite the AO's recommendation, on 21 July 2023, the Performance Evaluation Review Board (PERB) determined the transfer fitness report would be retained as filed. See Enclosures (9) and (10).

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants partial relief. In this regard, the Board concurred with the AO that Petitioner's contentions lack sufficient merit to invalidate the contested fitness report or warrant its removal from his official record. However, the Board substantially concurred with the AO's determination that the RO included a negative and/or limiting comment in Section K.4 and that the comment, "With applied mentorship and growth MRO will be ready for more difficult assignments and promotion with contemporaries" should be redacted.

Petitioner also indicated in his application that he was the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude Petitioner was the victim of reprisal in violation of 10 USC 1034.

## RECOMMENDATION

In view of the above, the Board recommends the following corrective action.

Petitioner's naval record be corrected by removing from enclosure (2), Section K.4, the following sentence, "[w]ith applied mentorship and growth MRO will be ready for more difficult assignments and promotion with contemporaries."

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.

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

3/29/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]