



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

█
Docket No. 1610-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █
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Ref: (a) 10 U.S.C. § 1552

Encl: (1) DD Form 149 w/enclosures
(2) Fitness Report for the reporting period 1 Apr 2017 to 17 Nov 2017
(3) Administrative Remarks (Page 11) counseling entry of 25 Aug 2017
(4) BCNR Letter █ Docket No. 4723-20 dtd 11 Jun 2021
(5) CMC memo 1610 MMPB-21D/PERB of 7 Feb 2024
(6) HQMC memo 1610 MMRP-30 of 27 Nov 2023

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 removal of enclosure (2), the transfer (TR) fitness report for the reporting period 1 April 2017 to 17 November 2017.

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 21 March 2024, and pursuant to its regulations, determined 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. Petitioner failed a scheduled Physical Fitness Test required for Recruiter's School certification on 11 April 2017. She was subsequently issued an Administrative Remarks (Page 11) entry counseling her on the PFT failure.

c. Petitioner passed a PFT on 9 June 2017 with a combined score of 228. See enclosure (2).

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d. On 25 August 2017, Petitioner failed the recertification PFT required after the 11 April 2017 PFT failure. She was subsequently issued a Page 11 counseling entry because her total score of 170 was below the minimum passing score of 199. See enclosure (3).

e. Petitioner was issued a TR Fitness Report for the reporting period 1 April 2017 to 17 November 2017. Block 8b of the contested report reflects the 11 April 2017 PFT score because, as stated by the Reporting Senior (RS) in his directed comments, “the initial failed PFT is the score that must be recorded in Item 8b...” Throughout the adverse report, reference is made to her PFT failures during the reporting period. See enclosure (2).

f. By action of 11 June 2021, the Board corrected Petitioner’s record by removing the Page 11 counseling entry of 12 April 2017. Based on supporting medical documentation, the Board determined it was unjust for the Page 11 to remain in Petitioner’s record since she had experienced a recent miscarriage which affected her ability to perform the PFT. See enclosure (4).

g. Based on removal of the 12 April 2017 Page 11, Petitioner, in her current submission, requested removal of the TR fitness report for the reporting period 1 April 2017 to 17 November 2017. She contends the Page 11 was the justification for the adverse report therefore its removal renders the report invalid. Further, she contends the adverse report was not properly reviewed “without prejudice” by the Third Officer Sighter. See enclosure (1).

h. The Board considered the 7 February 2024 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 27 November 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). Although Petitioner was provided an opportunity to respond to the AO, she chose not to do so. The PERB decided the report was valid as written and filed, in accordance with the applicable Performance Evaluation System Manual guidance. Specifically, the AO noted the offending counseling entry, now removed from Petitioner’s Official Military Personnel File, although referenced in the derogatory material block, did not formulate the underlying basis of report adversity. Rather, the AO, noting the counseling entry at enclosure (3), concluded PFT failures on two separate occasions formulated the basis for adversity. Therefore, the AO concluded that failure in any of the PFTs renders Petitioner’s report adverse. Additionally, the AO concluded Petitioner failed to provide any supporting evidence, beyond her statement, that her report was not properly reviewed by the Third Officer Sighter. Lastly, the AO noted the Item 8b scores are “administrative data not necessarily pertinent to PERB consideration” and recommended Petitioner request administrative correction via separate correspondence. See enclosures (5) and (6).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting corrective action. In this regard, the Board substantially concurred with the PERB’s decision and AO’s recommendation not to remove the contested report. However, in its review of the adverse report, the Board noted specific reference to the now removed 11 April

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2017 Page 11 counseling entry and determined modification to the fitness report is required based on the Board's 11 June 2021 action.

RECOMMENDATION

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

Petitioner's TR fitness report for the reporting period 1 April 2017 to 17 November 2017 be modified as follows:

(1) Change block 8b to reflect 9 June 2017 PFT scores as reflected in the RS's additional comments.

(2) Remove the word "subsequent" from the Leadership justification block on page 3 of 5.

(3) Change the "Directed Comment, Sect A, Item 5A and Item 8b:" to read as follows: "On 25 Aug 2017, [Petitioner] received a 6105 counseling for failing a PFT, which resulted in her orders being cancelled as she was unable to attend Recruiter's School. During this PFT, MRO performed five pull ups, 97 crunches, and a 3-mile run of 31:56 for a combined score of 170."

(4) Change the "Directed Comment, Sect A, Item 6b:" to read as follows: "MRO received a 6105 counseling on 25 August 2017 for failing a scheduled recertification PFT for Recruiter's School."

(5) Redact the following from the Third Officer Sighter comments on addendum page 5 of 5: "-On 11 April 2017, MRO failed a scheduled PFT for Recruiters School certification which would render this report adverse." Additionally, remove the word "subsequent" from the following sentence so the remaining sentence reads as follows: "She failed a certification PFT during this reporting period on 25 August 2017."

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 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.

4/9/2024

