



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

[REDACTED]
Docket No. 3421-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

Ref: (a) 10 U.S.C. § 1552

Encl: (1) DD Form 149
(2) Fitness Report for the reporting period 25 May 2022 to 31 May 2023
(3) CO, Recruiting Station [REDACTED], CO Memo, subj: Correction of Evaluation Markings
ICO [Petitioner], 15 August 2023
(4) CMC 1610 MMPB-21D/PERB Memo, Subj: Performance Evaluation Review
Board (PERB) Decision ICO [Petitioner], 18 March 2024
(5) MMRP-30 1610 MMRP-30 Memo, subj: Performance Evaluation Review Board
(PERB) Advisory Opinion ICO [Petitioner], 31 January 2024

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, hereinafter referred to as the Board, requesting modification to his Fitness Report for the reporting period 25 May 2022 to 31 May 2023.

2. The Board reviewed Petitioner's allegations of error or injustice on 16 May 2024, and pursuant to its regulations, determined the corrective action indicated below should be taken on Petitioner's naval record in the interests of justice. Documentary material considered by the Board included the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

3. Having reviewed all of the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found 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 the Fitness Report at enclosure (2) for the reporting period 25 May 2022 to 31 May 2023. He received attribute markings of "D" for Section D, Mission Accomplishment, Proficiency and "C" for Section E, Individual Character, Courage.

c. Petitioner contends the Reporting Senior (RS) erroneously marked the Mission Accomplishment/Proficiency and Individual Character/Courage attributes as "D" and "C"

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[REDACTED]

respectively. He further contends the Fitness Report, without the requested modifications, will affect advancement, promotions, command, and other career opportunities for his remaining time in service. See enclosure (1).

d. In support of Petitioner's request for relief, the RS, Commanding Officer, Recruiting Station [REDACTED] furnished enclosure (3) to provide additional information to justify the requested corrections. The RS specifically states he failed to accurately transfer his markings from his internal tracker to Petitioner's Fitness Report in Marine Online. The RS states Petitioner should receive an "E" for Mission Accomplishment/Proficiency and a "D" for Individual Character/Courage. The RS closes by saying he "will do whatever it takes to ensure this Marine gets the markings he deserves. He is a Marine that we must retain and promote in our ranks."

e. On 18 March 2024, the Performance Evaluation Review Board (PERB) considered Petitioner's application at enclosure (1). The PERB, considered the Advisory Opinion (AO) at enclosure (5) provided by Headquarters Marine Corps (MMRP 30) on 31 January 2024, and denied Petitioner's request to modify the contested report. The AO at enclosure (5) determined the report was valid as written, recommended it be retained as filed in Petitioner's Official Military Personnel File (OMPF), and made the following comments:

1) With limited details and no other justification for changing the errors, except "I have made this mistake," it is impossible to fully determine cause and effect within the RS's profile. The RS, in his statement, does not acknowledge that retroactive substantive correction of two attribute markings may devalue preceding reports and only provide more weight to Petitioner's report.

2) The RS's endorsement omits any cause and effect on the other peer Captains within the same grade cumulative profile.

3) The RS's endorsement omits any remarkable new facts that were previously unknown at report processing.

4) The credibility and strength of the Performance Evaluation System is not built, nor sustained, on hindsight nor affording reporting officials the latent opportunity to revise their original assessment on whim or by prompting by the Marine Reported On.

The AO concluded that Petitioner had not met the burden of proof, nor shown by preponderance of evidence, probable material error, substantive inaccuracy, or injustice warranting modification of the contested report.

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence, the Board Majority determined Petitioner's request warrants relief. The Board Majority noted the RS admitted his error in transferring the attribute markings from his internal tracker to Marine Online. Further, the Board Majority noted the timeliness of Petitioner's attempt to correct his fitness report and determined the correction

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was immediately pursued upon discovery, which likely was as soon as the Petitioner first saw the markings after report posted in Petitioner's OMPF, and not after any perceived negative impact. Just as the RS is trusted to accurately evaluate Petitioner's performance, the Board Majority determined the RS's explanation of the errors, that were provided in a timely manner, warrants the same level of trust and concluded the modifications should be made to the two attribute markings. Lastly, the Board Majority considered the AO's discussion of the cause and effect on the other peer Captains but determined the timeliness of the requested modification causes the potential effect to be next to nil for the peer Captains. Based on the available evidence, the Board Majority concluded the RS provided sufficient evidence of an error or injustice warranting the requested modifications.

MAJORITY RECOMMENDATION:

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

Petitioner's naval record be corrected by modifying the contested Fitness Report at enclosure (2) as follows:

Change Section D. Mission Accomplishment/Proficiency from "D" to "E"

Change Section E. Individual Character/Courage from "C" to "D"

That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record, and that no such entries or material be added to the record in the future. This includes, but is not limited to, all information systems or database entries that reference or discuss the expunged material.

MINORITY CONCLUSION:

Upon review and consideration of all the evidence, the Board Minority concurred with the PERB decision and determined there is insufficient evidence of a material error or injustice. Although the Board Minority concurred with the Board Majority's comments regarding the RS's mistake, timeliness of the request, and impact on peer Captains, the lack of an endorsement from the Reviewing Officer, the one charged with concurring or not concurring with the RS's evaluation, prevented the Board Minority from recommending relief. Based on the available evidence, the Board Minority concluded there is insufficient evidence of an error or injustice warranting modification of the contested fitness report.

MINORITY RECOMMENDATION:

In view of the foregoing, the Board Minority recommends that no corrective action be taken on Petitioner's naval record.

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.

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5. The foregoing action of the Board is submitted for your review and action.

6/6/2024



From: Assistant General Counsel (Manpower and Reserve Affairs)

 X MAJORITY Recommendation Approved (Grant Relief – I concur with the Majority conclusion and therefore direct the relief recommended by the Majority above.)

 MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusion and therefore direct that no corrective action be taken on Petitioner’s naval record.)

