



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

█
Docket No: 4636-21
Ref: Signature Date

█
█
█

Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 1 February 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations, and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, as well as the 15 July 2021 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 22 March 2021 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The AO was provided to you on 15 July 2021, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to modify your fitness report for the reporting period 16 June 2017 to 18 June 2018 by increasing the comparative assessment mark, or by removing the comparative assessment mark. The Board considered your contention that your reviewing officer (RO) assessed you in back-to-back reporting periods, however, you received a lower comparative assessment mark on the contested fitness report and your RO failed to provide any comments to support that your performance was not constant. You also contend that according to the Marine Corps Performance Evaluation System (PES) Manual, "The mark should be consistent with your RO profile; i.e., a MRO you are assessing in back-to-back reporting periods and whose performance remains constant, should at least received the same mark, as you assigned to the prior report."

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted that you were assigned to a different billet and different reporting senior (RS) during the contested reporting period. The Board determined that your performance did not 'remain constant', your RO's evaluation during the contested reporting period was based upon your performance in a different billet, with different requirements, and increased responsibility as the Legal Assistance Officer-in-Charge. The Board also determined that the PES Manual does not prohibit ROs from decreasing comparative assessment marks and your RO was not required to provide justification for his determination. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

2/14/2022

█
Executive Director
█