



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

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Docket No. 4661-21
Ref: Signature Date

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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.

Although your 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 your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 4 November 2021. 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 by the Marine Corps Performance Evaluation Review Board (PERB), and the 9 April 2021 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the AO were 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 2 February 2011 to 31 May 2011 Fitness Report by changing the Reviewing Officer's (RO's) Comparative Assessment marking from block '5' to block '6.' The Board considered your contention that the mark was given to you under assumptions that turned out to not be true. You further contend that the RO, in his letter enclosed with your application, explains that he believed and continues to believe that you performed in a manner consistent with the '6' block.

The Board, however, substantially concurred with the AO and the PERB decision that the report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted the RO's favorable endorsement you submitted with your request;

however, concurred that the RO, who at the time, served as the Division Chief of Staff, had a thorough understanding of the comparative assessment of past and present Marine Captains at the time of the report. The Board further noted that, while the RO's comments are favorable, they are not exceptional, and his assessment of you included your promotion to Captain and the short reporting period, indicating the RO factored those into his assessment, which is in accordance with the PES Manual. Although the RO did not have another opportunity to evaluate you in a subsequent report, as he anticipated he would in his letter of endorsement, and despite his belief "you would have easily moved into the '6' block," the Board felt the RO's assessment of you for this report was appropriate at the time, given the RO's consideration of the factors mentioned above. The Board thus concluded that your request is lacking in substantial evidence of error or injustice warranting modification of this report.

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,

11/24/2021

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Deputy Director

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