



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

█
Docket No. 4667-21
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 13 January 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 by the Marine Corps Performance Evaluation Review Board (PERB), and the 20 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. Your rebuttal was received on 20 August 2021 and was considered by the Board.

The Board carefully considered your request to remove your 4 July 2019 to 31 May 2020 Fitness Report. The Board further considered your request to remove all your failures of selection to Lieutenant Colonel. The Board noted that the contested fitness report was available for consideration by the promotion selection board for Fiscal Years (FY) 2021 and 2022, which you contend caused an injustice and may have affected your selection for promotion. In light of the results of the FY 2023 promotion selection board, the Board also considered your most recent failure of selection. The Board considered your contention that the report was completed contrary to the Performance Evaluation System (PES) Manual, specifically that Section K comments did not indicate that the Reviewing Officer (RO) held a senior billet to the Reporting Senior (RS) or is granted seniority to the RS by another authority. You assert that the RS/RO relationship did not exist between the RS/RO.

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 your contention that the RS/RO were of the same rank and Section K comments did not include justification in accordance with the PES Manual; however, determined the oversight was administrative in nature and does not invalidate the report which covered an 11-month reporting period. The Board further noted your contention of a non-existent RS/RO relationship and took into consideration your rebuttal statement. However, the Board thus concluded that your request is lacking in substantial evidence of an error or injustice warranting removal of this report and as such, removing all failures of selection to Lieutenant Colonel is not warranted.

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,

1/28/2022

