



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. 5352-21
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.

A three-member panel of the Board, sitting in executive session, considered your application on 17 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 11 August 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 20 July 2021 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30), and your rebuttal response of 11 September 2021.

The Board carefully considered your request to modify the fitness report covering the reporting period 17 March 2020 to 30 June 2020 by changing the comparative assessment from the "5" block to the "6" block. The Board also considered your alternative request presented in the AO rebuttal. Specifically, if the Board denied your request to adjust the comparative assessment marking, you requested the Reviewing Officer (RO) section K comments and the comparative assessment mark be entirely removed but retention the Reporting Senior's portion of the report. The Board considered your contention the fitness report was marked in contradiction to the Performance Evaluation System (PES) Manual which states "a MRO you are assessing in back-to-back reporting periods, and whose performance remains constant, should receive at least the same mark as you assigned to the prior report." Further, you stated you did not receive negative documentation to suggest the marking is due to a decrease in performance or the result of past or pending legal matters. Based on the PES Manual, you contend the comparative assessment of the contested report should have been marked in the "6" block.

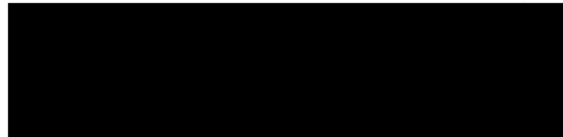
The Board also considered the contention you raised in your rebuttal to the AO. Specifically, you contend the RO continued his observation for the contested annual fitness report after his departure from the command. In support of this allegation, you provided “service tour data” for the RO reflecting the end of his command tour was 22 June 2020.

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 detachment preceded the end of the contested report’s reporting period by eight days but concluded the error was not material error which warranted relief. The Board further noted the RO was not required by the PES Manual to provide any documentation or justification for the reduced comparative assessment marking and concluded that since the RO tacitly acknowledged the purpose and intent of the comparative assessment marking, the marking is valid. The Board concluded there is insufficient evidence of an error or injustice warranting your requested relief.

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,

3/10/2022

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Executive Director

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