



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: 5730-21
Docket No: 7350-21
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.

Although your applications were not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your applications on their merits. A three-member panel of the Board, sitting in executive session, considered your applications on 27 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 the 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 27 August and 27 September 2021 decisions by the Marine Corps Performance Evaluation Review Board (PERB), and the 8 and 19 July 2021 Advisory Opinions (AOs) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decisions and the AOs were provided to you, and 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 (Fitrep) for the reporting period 1 November 2008 to 31 March 2009 by changing the Comparative Assessment mark from the "5" block to the "6" block. The Board considered your contention that the Reviewing Officer's (RO) marking was inadvertent and inconsistent with the RO's assessment of you future potential compared against your peers.

The Board also carefully considered your request to modify your 1 June 2011 to 18 January 2012 Fitrep by changing the Reporting Senior (RS) portion to "not observed" and by changing the RO's Comparative Assessment mark from the "5" block to the "6" block. Alternatively, you requested to change the RO's portion to "insufficient" observation should the aforementioned modification not be approved. You assert that the marks are unjust because the RS changed

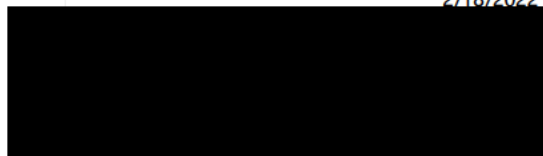
during the reporting period and a senior-subordinate relationship was not established with the new RS until November 2011. You contend that during November and December, the RS was not able to adequately observe your performance due to low operational tempo during the holiday period. You also contend the RO's marking was inadvertent and inconsistent with the RO's assessment of your future potential compared to your peers.

The Board, however, substantially concurred with the PERB's finding that the reports are valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. With regard to both Fitreps, the Board noted that the letters furnished by the respective Fitrep ROs, although submitted with good intentions, omitted any new evidence that was unknown at report processing. Moreover, you failed to provide any evidence, beyond the ROs' endorsements, that your documented performance warrants a higher Comparative Assessment mark. The Board also determined that a letter from a reporting official to a respective promotion board does not constitute a formal endorsement of your request, nor does it necessarily constitute pertinent and/or valid evidence in support of your claim. The Board thus concluded that your evidence is not sufficient to warrant the requested relief for either Fitrep.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon the 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,

2/18/2022

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Deputy Director

Signed by: 