



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. 5398-22
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 6 September 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 16 July 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 25 March 2022 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision was provided to you on 16 July 2022. Although you were provided an opportunity to comment on the AO, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

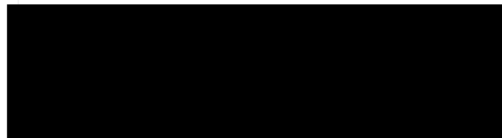
The Board carefully considered your request to modify your Fitness Report (Fitrep) for the reporting period 1 October 2017 to 31 January 2018 by removing the RS marks and comments from the Fitrep. The Board considered your contention that the Reporting Senior (RS) is the same grade as you and, in accordance with the Performance Evaluation System (PES) Manual, the Reviewing Officer must indicate in Section K authorization for the RS to complete a Fitrep on an officer of equivalent grade.

The Board, however, substantially concurred with the AO and PERB decision that the Fitrep was administratively and procedurally correct as written and filed, in accordance with applicable PES Manual guidance. The Board agreed with the AO that since the RS was the Maintenance Officer at the time of processing, you were required to report to him by virtue of his senior billet. Further, the Board considered that the RS was your RS in the preceding Fitrep, wherein you were a Captain, thereby establishing a Marine Reported on/RS relationship. The Board thus determined that the RO adhered to PES Manual guidance and was not required to provide authorization in Section K comments. As pointed out in the AO, the PES Manual guidance regarding same grade RS restrictions were designed to avoid situations where the same grade RS may be compromised. By virtue of the preexisting RS/MRO relationship and billet seniority, the Board determined no such compromise existed in your case. The Board thus concluded that there is no probable material error, substantive inaccuracy or injustice warranting modification of the fitness report in question. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit 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,

10/5/2022

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Executive Director

Signed by: 