



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. 5429-22
Docket No. 5434-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your applications 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 applications, 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 applications have been denied.

A three-member panel of the Board, sitting in executive session, considered your applications on 15 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 applications, 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 decisions by the Marine Corps Performance Evaluation Review Board (PERB) and the 1 February 2022 Advisory Opinions (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove your fitness reports for the reporting periods 7 August 2018 to 30 April 2019 and 1 May 2019 to 30 April 2020. The Board considered your contention the report ending April 2019 should be removed because the Reporting Senior (RS) was the same rank and Military Occupational Specialty as you during the reporting period and should not have been authorized by the Reviewing Officer (RO) to be the RS for the fitness report. The Board also considered your contention the report ending 30 April 2020 should be removed because you and the RS were the same rank for eight of the 12 months of the reporting period, and the RO did not indicate authorization in his comments nor did the RS meet the exceptions policy.

The Board, however, substantially concurred with the AOs and the PERB decisions that the reports are valid as written and filed, in accordance with the applicable Performance Evaluation System Manual guidance. In this regard, the Board noted the RS was clearly in a position, and

duly and clearly authorized by the RO, to serve as the RS for the report ending 30 April 2019. Additionally, the Board noted the RS was a Chief Warrant Officer Three (CWO3) when the report ending 30 April 2020 was processed and, concurring with the AO, concluded that the RS's senior grade at processing obviated any requirement for the RO to include authorization. Further, the Board noted that, as the nominal Battalion Maintenance Officer, the RS was the direct superior responsible for your daily tasking and supervision during both reporting periods and clearly occupied a billet senior to you for the entirety of those reporting periods. The Board concluded there is insufficient evidence of an error or injustice warranting removal of the contested fitness reports.

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,

10/20/2022

