



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

██████████
Docket No. 7912-22
Ref: Signature Date

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Dear ██████████

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 29 November 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 23 September 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 25 July 2022 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30), and your 20 October 2022 response to the AO.

The Board carefully considered your request to remove your Fitness Report for the reporting period 1 October 2018 to 24 January 2019. The Board considered your contentions that the fitness report was written with implicit bias by your Reporting Senior (RS), with unjustifiable markings and ethical violations that detracted from your overall personal and professional character. Further, you contend that your RS, Equal Opportunity Representative (EOR) and respective leadership demonstrated micro-aggressive and covert behavior which contributed to a toxic workplace environment within the Squadron. Moreover, you assert that the missing command climate surveys from 2019 and 2020 are corollary of the toxic organizational climate. The Board also considered your claims of discrimination throughout the Squadron and that it has been a barrier to your promotability and career advancement in service. Next, the Board considered your contention regarding your professional military education (PME) markings. Lastly, the Board also considered your claim that you were diagnosed with severe depression in 2019 due to the experiences during the reporting period.

The Board, however, substantially concurred with the AO and the PERB decision that the fitness report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted that both the RS and Reviewing Officer comments paint a picture of a Marine who strove diligently but achieved adequate results. The Board determined your RS had sufficient observation during the reporting period, as required by the PES Manual, and the attribute markings and comments were appropriate based on that observation. The Board also considered the Letter of Recommendation you provided from the subsequent Squadron Commander, however, the fact that he could “not speak to the specific circumstances that led to the fitness reports . . .” significantly undermined the letter of recommendation as determinative evidence of any specific error or injustice within the contested fitness report.

Regarding your contentions of implicit bias towards non-aviation supply Marines by your reporting officials and unjustifiable markings and ethical violations that detracted from your overall personal and professional character, the Board noted the following: there is not a PES Manual scale to “match” Section I or K comments nor is any such scale feasible or practical; reporting official profile management is an important subset of the performance evaluation system and respective performance evaluations and it is essential that the RS remain cognitive of profile dynamics; and there is always some degree of subjectivity with evaluations and the performance evaluation system is not designed to remove all subjectivity. The Board thus concluded that these contentions lack sufficient evidence beyond your personal statement.

In regards to your claim regarding “micro-aggressive behavior” by the RS, EOR, and respective leadership the Board noted that you omit any evidence beyond your personal statement in support of these contentions. The Board also noted your contention that the missing climate surveys for 2019 and 2020 are corollary of the toxic organizational climate, the Board concurred with the AO that even if the surveys had been conducted they would not necessarily invalidate the contested fitness report.

With regard to your claim that discrimination throughout the Squadron was a barrier to your promotion consideration and retention in service, the Board determined that whether or not the contested fitness report hindered your promotability or career advancement is conjecture that the Board simply could not validate. The Board thus concluded that your request is lacking in sufficient evidence of error or injustice of this fitness report.

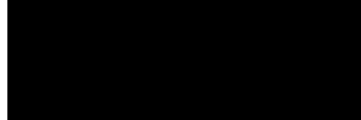
Regarding your claim that the RS continuously marking you as a C for PME despite having completed numerous courses and PME, the Board noted that per the PES Manual, “[w]hile an all-around education is important, the subjects that our Marines concentrate on that can improve their leadership and warfighting abilities are of most concern.” Furthermore, your contention that you received lesser markings in PME against your peer, a white male lacks any validation by supporting evidence beyond your personal statement.

Regarding your claim that you were diagnosed with severe depression in 2019, you provided no medical documentation in support of this claim or how any diagnosis of severe depression would have negatively impacted or affected the contested fitness report.

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,

1/4/2023

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Deputy Director

Signed by:

A black rectangular redaction box covering the name of the Deputy Director.