



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. 8042-22
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 8 December 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 21 October 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 2 August 2022 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30).

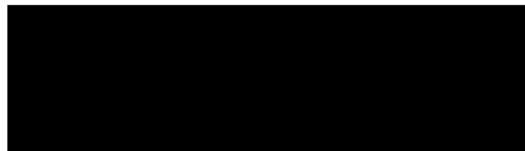
The Board carefully considered your request to modify the fitness report for the reporting period 1 April 2013 to 23 May 2013 by modifying section K items 1, 2, and 3; deleting the Reviewing Officer's (RO's) comparative assessment; and replacing the RO comments with "This is a not observed fitness report due to insufficient observation time." You contend that since the fitness report was marked "not observed" by the Reporting Senior (RS) and the RO "concurred" with the RS's report, the RO's decision to review the fitness report is inconsistent. You further contend the RO elected to review a 53-day period but there was no "meaningful" RO relationship, "significant reason to warrant such a short report," and the RO was "not present nor involved" with you at the time of the fitness report. Additionally, you contend "appropriate commentary" was not included and, though the verbiage is positive, it is administratively incorrect and does not facilitate proper evaluation.

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 the PES Manual affords broad latitude to the RO in determining sufficient observation criteria, does not require the RO be bound by the minimum observation constraints placed on a RS, and does not require the RO to document a "significant reason" in order to render sufficient observation. The Board further noted your petition lacks any evidence, beyond your statement, to suggest the RO's relationship with you was not meaningful nor does it contain any endorsement from the reporting officials. Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting modification of 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,

1/5/2023

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Deputy Director

Signed by: 