



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

██████████
Docket No. 8045-22
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 10 January 2023. 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 25 July 2022 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and AO were provided to you on 21 October 2022, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to remove your fitness report for the reporting period 1 June 2018 to 30 April 2019. The Board considered your contentions that the reporting senior (RS) exhibited biased leadership, bigotry, and unprofessional treatment towards subordinates. You claim that the RS was placed on the Officer Disciplinary Notebook (ODN) and had his promotion withheld indefinitely for making extremist comments in the workplace, expressing support for the "Insurrection" and sexual harassment. You assert that those comments, the RS behavior, and his current disciplinary status are indicative of the bigotry and unprofessional treatment of subordinates that you experiences while serving under his command. You believe that severe racial bias was a key factor in the below-average fitness report you

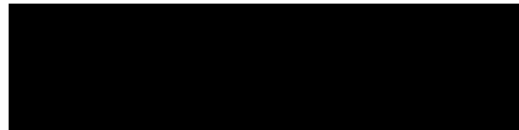
received, was the last fitness report issued to you before being considered for promotion to Lieutenant Colonel.

The Board, however, substantially concurred with the AO and the PERB decision that your fitness report was administratively and procedurally correct as written and filed, according to the Marine Corps Performance Evaluation System (PES) Manual. In this regard, the Board found no evidence of bias or misconduct by the RS or that the RS wrote the fitness report with the intention to ensure the report average was below-average and you provided none. The Board determined that a low relative value does not constitute a basis to remove a fitness report. The Board also determined that there is insufficient evidence that your performance and conducted rated higher marks than you received. The Board concluded that there is insufficient evidence of a probable material error, substantive inaccuracy or injustice warranting corrective action.

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,

2/1/2023

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Deputy Director

Signed by: 