



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. 8091-22
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.

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 18 August 2022 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the 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 modify your fitness report for the reporting period 5 January 2022 to 19 May 2022 by changing the reporting senior (RS) portion to not observed. The Board considered your contentions that the RS did not adhere to the Marine Corps Performance Evaluation System (PES) Manual, in that: 1) the RS included patronizing comments and implemented other techniques designed to “game” the system; 2) the RS failed to clarify to the reader the disparity between attribute markings, language, and vagueness of language; 3) the RS did not ensure that the report is consistent, and did not ensure comments do not conflict with and obscure the report; 4) the RS marked attributes that ensured a bottom-third value within his profile while providing reasonably laudatory comments; and 5) the RS was placed under investigation for bullying, harassment, and aggressive behavior, and this had a deleterious effect on his report writing and focus.

The Board, however, substantially concurred with the AO and the PERB decision that the fitness report was administratively and procedurally correct as written and filed, according to the PES Manual. In this regard, the Board determined that the RS adhered to PES Manual guidance when providing appropriate attribute markings based on his assessment of your performance at the time. The Board found no evidence beyond your own statement that the RS was attempting to “game” the system or that the attribute markings were not an accurately reflection of your performance and conduct. The Board noted that the reviewing officer concurred with the RS’s assessment of your performance and found no evidence that the purported investigation affected the RS ability to observe your fitness report. The Board also determined that your dissatisfaction with the relative value of the report is not a basis for corrective action. The Board thus concluded that your request is lacking in sufficient evidence of probable material error, substantive inaccuracy or injustice warranting modification of the Fitrep from your official military personnel file.

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,

2/2/2023

