



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. 8096-22
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 5 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 28 July 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 covering the reporting period 1 May 2011 to 10 August 2011 by changing the Reviewing Officer's (RO's) comparative assessment marking from the "4" block to the "5" block. The Board considered your contention the "4" block marking was in error because it did not accurately capture your performance at the time and it was not in accordance with the Performance Evaluation System (PES) Manual requirements for back-to-back reporting periods. You further contend that in the fitness report prior to the report ending 10 August 2011, the RO made a "5" block marking. In support of your contention, you submitted a letter from the RO requesting modification to this report and the preceding report for the reporting period 15 March 2011 to 30 April 2011.

The Board, however, substantially concurred with the AO and the PERB decision that the report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted that your contention the marking in the "4" block was not in accordance with the PES Manual's requirements for back-to-back reporting lacked merit because the report

ending 30 April 2011 also had a “4” block comparative assessment marking. Further, the Board noted the RO’s endorsement omitted any new facts that were unknown at report processing. Additionally, the Board noted there was insufficient evidence that your performance for the reporting period was not “accurately captured.” 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,

1/30/2023

