



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. 488-23
Docket No. 519-23
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 28 February 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 3 January 2023 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 5 December 2022 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The AO was provided to you on 3 January 2023, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to modify your fitness reports for the reporting periods 1 July 2018 to 31 May 2019 and 30 June 2019 to 13 January 2020 by removing the reporting senior (RS) attribute marks and Section I comments. The Board considered your contentions that the RS was the subject of a command investigation involving fraud, abuse of authority, and toxic leadership, and the Investigating Officer (IO) recommended that the RS be relieved for cause and required to show cause. The IO also found that the RS engaged in wrongful acts and abused his authority over subordinate personnel spanning two evaluation periods. You assert that the RS intended to defame your performance by withholding key performance elements from the reviewing officer (RO)/commanding officer (CO). In your opinion the RS delegitimized your performance and retaliated against you for reporting his questionable acts.

The Board noted that the Commander, U.S. Marine Forces Central Command directed a command investigation into allegations of fraud, abuse of authority, and toxic leadership within the command based on an anonymous complaint. The Board also noted that the IO found instances when the RS abused his authority over subordinate personnel and failed to submit fitness reports in a timely manner. The IO also found no evidence to substantiate allegations of false official statements or fraud and recommended the RS's relief for cause and that he not be required to show cause.

The Board, however, substantially concurred with the PERB's decision and the AO. In this regard, the Board noted that the command investigation did not include the Convening Authority endorsement and found no evidence that the RS was actually relieved for cause or required to show cause. In consideration of the totality of the evidence, the Board determined that the evidence was insufficient to warrant the modification of your fitness reports and to support your argument that the RS withheld information from the CO and used your fitness reports to defame and delegitimize your performance.

You also indicate in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. Accordingly, the Board concluded that there is no 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,

3/10/2023

