



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



Docket No. 1708-23
Ref: Signature Date



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 March 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 13 February 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 7 December 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 13 February 2023. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your Fitness Report for the reporting period 19 July 2021 to 15 November 2021. The Board considered your contentions that your Reporting Senior (RS) was not the first commissioned officer in your chain of command, which was a first lieutenant who has since been separated, as well as your claim that because the reporting chain was altered, it was difficult to be fairly assessed by the RS. The Board also

considered your contention that you never received any intermediate counselings between your initial counseling and the date the fitness report was issued.

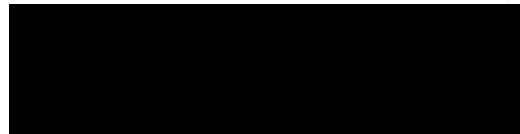
The Board, however, substantially concurred with the AO and the PERB Decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted that you were serving as the Current Operations Officer and the RS was the Operations Officer, a decidedly typical, logical, and doctrinal reporting chain. Further, The Board determined that that the assumption could be made that a Regimental Operations Officer would retain cognizance over the Current Operations Officer via personal interaction and/or oversight. Moreover, the Board concurred with the AO that perhaps the Operations Officer had determined that the first lieutenant, pending separation from the Marine Corps, was not best suited to serve as your RS. Finally, the Board agreed with the AO that, absent your statement, you provided no evidence that an irregularity existed with your report chain.

In regards to your contention that you never received any intermediate counseling's, the Board noted although the PES Manual encourages RS to counsel the Marine Reported On throughout the reporting period, relief is not generally granted based on alleged lack of counsel, as counsel takes many forms. The Board ultimately found no evidence that your performance and conduct warranted higher markings than were assessed on the fitness report in question. The Board thus concluded that your request is lacking in substantial evidence of error or injustice to remove the fitness report in question. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

4/17/2023



Executive Director

Signed by: 