



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. 1710-23
Ref: Signature Date

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Dear █

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 18 April 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 furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 26 October 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 13 February 2023, 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 1 June 2021 to 31 May 2022. The Board considered your contention that the reviewing officer's (RO's) comparative assessment mark indicates a decrease in performance without proper justification or supporting material, the RO declared that the observation was sufficient, and concurred with the reporting senior's (RS's) assessment. You also contend that the fitness report demonstrates that you exceeded your performance during the previous reporting period. Despite this, the RO marked your comparative assessment mark lower and did not explain or justify the mark. Further, the RO comments supporting the comparative assessment appear ambiguous and does not meet criteria outlined by the Marine Corps Performance Evaluation System (PES) Manual. You claim that this discrepancy is apparent when compared to the

previous fitness report and there is no reference to any counselings, regression, or adverse material that would indicate or justify a decrease in performance.

The Board, however, substantially concurred with the AO and PERB's decision that your fitness report is valid and should be retained as filed. In this regard, the Board found no indication that you attempted to address your concerns with the RO, nor is there evidence that the RO supports the modification to your record. The Board noted that your RO is a senior Marine officer with an established profile and experience as a RO. The Board also noted that the PES Manual indicates that a Marine, whose performance remains constant, should receive at least the same mark as assigned to the prior report. However, the Board determined that the RO's evaluation of your performance is separate and distinct from your RS's evaluation, your RO was not required to issue the same or higher mark, and he was not required provide justification. Therefore, the Board determined that the RO's comparative assessment mark was intentional and, without substantial proof to the contrary, the RO's mark is deemed valid. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of 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,

4/27/2023

