



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. 2089-23
Docket No. 2090-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your applications 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 applications, 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 applications have been denied.

A three-member panel of the Board, sitting in executive session, considered your applications on 20 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 applications, 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 March 2023 decisions by the Marine Corps Performance Evaluation Review Board (PERB) and the 28 December 2022 Advisory Opinions (AOs) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). Although you were afforded an opportunity to submit a rebuttal, you did not do so.

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

The Board carefully considered your request to remove the fitness reports for the reporting periods 1 October 2019 to 30 September 2020 and 1 October 2020 to 16 July 2021. Specifically, you requested removal of the fitness reports because they contain derogatory comments although they are "not deemed as such." Further, you contend the fitness reports are in error and/or unjust because of their low relative values, creative differences between yourself and the Reporting Senior (RS) over leadership training, and friction caused when the command did not allow the RS to issue you an Administrative Remarks (Page 11) 6105 counseling for an issue that was unrelated to you.

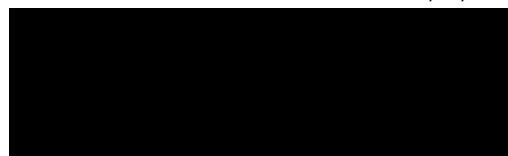
The Board noted the PERB modified the contested fitness report ending 30 September 2020 by redacting a portion of the RS's comments in Section I. The Board, thus substantially concurred with the AO and the PERB decision that the fitness report, as modified by the PERB, is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. Specifically, your request omits any evidence to suggest irregularity with the Reviewing Officer (RO) portion and any endorsement from the RS and/or RO. The Board concluded you have not demonstrated an error or injustice warranting removal of the fitness report ending 30 September 2020.

The Board, also, substantially concurred with the AO and the PERB decision that the fitness report ending 16 July 2021 is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted your request omits any evidence to suggest your demonstrated performance and conduct warranted higher markings than received. Further, your contentions lack specificity and/or amplification of the particular comments you contend are derogatory, and the Board determined the onus is on you to identify the perceived errors and/or injustices. Additionally, as noted for the other contested fitness report, your request omits any evidence to suggest irregularity with the RO portion and any endorsement from the RS and/or RO. The Board concluded you have not demonstrated an error or injustice warranting removal of the fitness report ending 16 July 2021.

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,

5/14/2023

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Deputy Director

Signed by: 