



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

██████████
Docket No. 3080-23
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 9 May 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 April 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 9 January 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30), and your response to the PERB decision and AO.

The Board carefully considered your request to remove the Reviewing Officer (RO) portion your 1 August 2019 to 30 April 2020 Fitness Report. The Board considered your statement and contentions that your RO held a pending investigation against you when marking the comparative assessment. You also claim that although the investigation was unsubstantiated the RO believed you were guilty and used his personal feelings against you. You assert that the RO marked you as one of his two lowest Marines without justification or adverse material.

The Board noted a Command Investigation was conducted in 2020 regarding an alleged domestic disturbance between you and your spouse. The Board noted that the IO determined that you did not assault your wife, but that you were trying to protect yourself and your uniforms from having bleach spilled on them. The IO recommended no further punishment be taken and that the investigation be close. On 29 July 2020 and the Commanding General, Marine Corps Installations East – Marine Corps Base, ██████████, concurred with the Investigating Officer's (IO) findings of facts, opinions, and recommendations and closed the investigation.

However, the Board 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 AO noted beyond your personal statement, you omitted any evidence to validate the contention that the RO's evaluation was infused with undue bias or that he assigned you marks without justification. The Board agreed that neither the Command Investigation, nor the circumstances giving rise to the Command Investigation, were referenced in the contested report and concluded that your contentions essentially amount to conjecture that the Board cannot validate. The Board thus concluded that insufficient evidence of error or injustice exists to modify 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,

5/15/2023

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Deputy Director

Signed by: 