



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. 3081-23
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 25 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 furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 6 February 2023 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 April 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 remove the fitness report for the reporting period 1 June 2018 to 31 May 2019. If approved, you request to remove your failures of selection (FOSs). The Board considered your contention that the fitness report was observed by the G-3/5, while the previous fitness report was observed by the G-3. You also contend that the G-3/5 was not the first commissioned officer in your reporting chain, he was not directly responsible for your daily tasking and supervising, nor was he in the best position to observe your performance and character according to the Marine Corps Performance Evaluation System (PES) Manual. You claim that you were not aware of the change to your reporting chain and there were no changes to your billet description, reporting structure, or command relationship. As evidence, you provided an organizational chart.

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 the RS comments to be fully informed of your duties, responsibilities, and accomplishments. In addition, the Board found no evidence that your RS was not properly situated to evaluate your performance or to perform duties as your RS. The Board also determined that Commanding Generals have the discretionary authority to modify the reporting chains. In this case, according to the organizational chart you provided, your reporting chain was modified, but remained under the purview of the G-3, with your former RS, the Operations Officer, as your reviewing officer. As such, the Board also determined that the change to your reporting chain was not a violation of the PES Manual. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the contested fitness report from your record. Based on the foregoing, the Board found no basis to remove your FOSs. 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,

6/12/2023

