



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

█
Docket No. 3200-23
Ref: Signature Date



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 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 9 November 2022 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-30) and your response to the AO.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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 the fitness report for the reporting period 29 December 2020 to 19 March 2021 and to replace it with a continuity fitness report. You also request a Special Selection Board (SSB). The Board considered your contentions that there were substantive material errors and processing inconsistent with regulations and policy because of an accusation that was wholly unsubstantiated. You also contend that you were wrongfully issued a not observed fitness report. The command manipulated the dates for the purpose of making the reporting period 90 days or less. The correct start date should have been 16 December 2020,

which is more than 90 days and required an observed fitness report according to the Marine Corps Performance Evaluation System (PES) Manual. You claim that the reporting senior (RS) improperly annotated your duty assignment as Assistant Operations Officer instead of Operations Officer, and you were improperly “soft relieved” of your billet without a fitness report. You also claim that you continued to perform the duties as Operations Officer.

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 noted that your fitness report was not observed and contains no comments referencing an investigation or misconduct. The Board also noted that the fitness report was processed by reporting official that are different from your previous reporting officials while assigned to [REDACTED] Battalion, [REDACTED] Marines, [REDACTED] Marine Division. The Board cannot infer the reason your reporting officials elected to start the reporting period on 29 December 2020 but found no evidence of bias or inappropriate conduct by your reporting officials. Regardless, the Board determined that there is no PES Manual entitlement to an observed fitness report. The Board acknowledged that the start date of your fitness report resulted in a date gap, however, the inconsistency in dates constituted a date gap of 18 days that does not require correcting according to the PES Manual. The Board also found no evidence that you were relieved. Your billet description as the Assistant Operations Officer is the same billet assigned during your previous reporting period, while assigned to the same command. 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 warrant the convening of a SSB. 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

[REDACTED]

Executive Director

Signed by: [REDACTED]