



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. 5900-23
Docket No. 5902-23
Ref: Signature Date

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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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 5 September 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 20 June 2023 decisions by the Marine Corps Performance Evaluation Review Board (PERB), and the 6 April 2023 Advisory Opinions (AO) provided to the PERB by Headquarters Marine Corps (MMRP-30) and the 31 July 2023 AO provided by Headquarters Marine Corps (MMRP-50). Although you were afforded an opportunity to submit a rebuttal, you did not do so.

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 your Fitness Report for the reporting period 20 July 2011 to 31 August 2011 as well your request to remove the Fitness Report for the reporting period 1 September 2011 to 13 November 2011. The board considered your contentions that pursuant to the MCO 1610.7A (PES Manual) the Reporting Senior (RS) not in your direct chain of command, wrote two consecutive reports that did not comply with the PES

Manual as well as your claim that you were unfairly ranked at the bottom of his profile. You further contend that the RS failed to justify in Section I why he invoked the exception to policy.

The Board, however, substantially concurred with the AOs and the PERB decisions. In this regard, the Board noted the PERB directed the contested reports be retained as filed with the RS portion rendered Not Observed as partial relief. Further, the Board noted you omit any evidence beyond your personal statement that the RS exerted undue influence on the Reviewing Officer and both evaluations appeared to be fully informed. Finally, the Board noted that removal of the contested fitness reports would constitute an excessive degree of redress. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting further corrective action. Accordingly, given the totality of the circumstances, the Board determined that your requests do 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,

9/12/2023

