



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

█
Docket No. 6846-23
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 26 October 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 21 July 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 16 May 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30).

The Board determined that your personal appearance, with or without counsel, would 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 covering the reporting period 27 April 2019 to 31 July 2020. Alternatively, you requested the report be made "non-observed" and marked as "commendatory." You contend the fitness report violates the Performance Evaluation System (PES) Manual because the Reporting Senior was not your direct supervisor, did not have sufficient observation time, and the Reviewing Officer (RO) did not adequately ensure policy compliance and administrative accuracy of the report.

The Board noted the PERB modified the contested fitness report by: 1) Marking Section A, Item 5b with an "X," 2) Marking Section A, Item 7c with an "X," 3) Deleting all information in Section

C, 4) Deleting Sections D through H, pages 2-4 of the report, 5) Deleting all comments, with the exception of the Directed Comments, from Section I, and 6) Inserting into Section I “This report is not observed due to insufficient observation time.”

The Board thus substantially concurred with the AO and the PERB Decision that the report, as modified by the PERB, is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted your petition omits sufficient evidence to warrant invalidation of the RO evaluation and agreed with the AO that removal of the report would constitute an excessive degree of redress and obviate 15 months of your documentation as a Company Commander. Therefore, based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting removal of the fitness report.

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,

11/24/2023

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Executive Director

Signed by: 