



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

██████████
Docket No. 6848-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 24 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 PERB decision and the AO were provided to you on 21 July 2023, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

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 modify your fitness report for the reporting period 9 June 2020 to 28 September 2020 by changing the comparative assessment. If approved, you request to remove your failure of selection (FOS). The Board considered your contentions that the comparative assessment mark is not in line with the Reviewing Officer's (RO's) comments and debrief of your performance, and your accomplishments during the reporting period. You also contend that there is no justification or documentation aside from the fitness report's comparative assessment that are indicative of poor performance. You claim that on 9 March 2023, you received a telephonic debrief from your former RO that you believe supports

your request for modification. As evidence, you provided a witness statement and correspondence with your former RO for consideration.

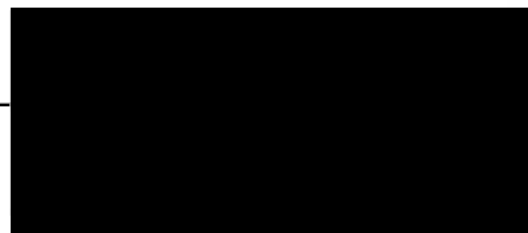
The Board, however, substantially concurred with the AO and the PERB decision that, in accordance with applicable Performance Evaluation System (PES) Manual guidance, the fitness report is valid as written and filed. In this regard, the Board noted the emails and text messages exchanges and your RO's statement, "I'm not changing my markings if that's what you're after." The Board determined that based on the RO's response, your evidence is insufficient to find that the RO's comparative assessment mark was not based on his/her assessment of your potential in comparison to all Marines of your grade to whose professional abilities were known to him/her at processing. Furthermore, the Board found no evidence that your performance and conduct warrant a higher comparative assessment mark than you received. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding your request to remove your failure of selection, the Board found no compelling evidence that the contested fitness report caused you to fail selection for promotion. As such, the Board concluded that your request does not warrant 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,

11/14/2023

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