



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. 6854-23
Ref: Signature Date

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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 3 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 furnished by the Marine Corps Performance Evaluation Review Board (PERB), the 18 May 2023 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and 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 1 June 2021 to 24 June 2022 and all failures of selection. The Board considered your contention that the fitness report was used as a counseling tool and did not follow the procedures and guidelines of the Marine Corps Performance Evaluation System (PES) Manual. Specifically, reporting officials must document and report unsatisfactory performance, lack of potential, or unacceptable professional character. You argued that no counseling ever took place, and the Third Officer █ comments acknowledged that no negative counseling's occurred. You also contend that the RS did not document the factual basis for adversity according to the PES

Manual. You claim that the Marines who may have disliked your lawful orders were able to influence the Reporting Senior (RS) to remove you and subsequently give you an adverse fitness report. In response to the AO, you provided statements regarding the personnel dynamics of the shooting team and reiterated your contention that you were not properly counseled, and you were not warned or issued any corrections pertaining to your position as Officer in Charge of the shooting team. You explained that you followed orders, and you were an advocate for the Competition in Arms Program.

The Board, however, substantially concurred with the AO and PERB's decision that your fitness report is valid as written and filed, in accordance with the applicable PES Manual. In this regard, the Board noted that counseling takes many forms and formal counsel is not required to render a fitness report adverse. The Board also noted the RS statements that guidance was provided, specifically, "MRO required an unusual amount of guidance and supervision for a leader of his rank and experience" and "Despite sufficient guidance and feedback, MRO displayed unacceptable judgment in his employment of personnel, . . ." The Board determined that your reporting officials provided sufficient justification and the factual basis to support performance-based adversity. The Board also determined that your relief for cause, RS comments regarding your failure to accomplish the requirements of your assigned billet, and failure to meet the RS expectations constitute performance-based adversity warranting an adverse fitness report. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the fitness report from your record. 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,

10/16/2023

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Executive Director

Signed by: █