



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

█  
Docket No. 6855-23  
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.

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 12 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 21 July 2023 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 25 March 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.

The Board carefully considered your request to modify the fitness report for the reporting period 25 June 2011 to 31 May 2012 by removing the Reviewing Officer (RO) portion. The Board considered your contention that the RO was not part of your chain of command for more than 20 days of the reporting period and did not observe your performance during the reporting period. You also contend that according to the Marine Corps Performance Evaluation System (PES) Manual, the RO must "make every reasonable effort to know the professional capabilities of the Marines whose reports they review" and "ROs should make every effort to come to know the Marines whose reports they will review." You claim that the RO evaluation should not have been processed as "Observed" because the RO had zero observation time during this reporting period.

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 the correspondence from your former Reporting Senior (RS) and his statement that he recommended that the RO observed your fitness report to reduce gaps in your career when being reviewed for programs as a new captain. The Board also noted the RO comments and determined that the comments appear to provide a well-informed narrative of your performance. Even if the RO had limited observation of your performance, the Board determined that based on the RS statement it is likely that the he provided the RO with comments and a recommended comparative assessment mark. The Board also considered your response to the AO, however determined that the PES Manual does not require Marines and reporting officials to be co-located for observation to occur, the practice of RSs providing comments and recommendations to ROs is not uncommon, and this practice is permitted by the PES Manual. Moreover, the circumstances regarding the RO's observation was known eleven years ago when the fitness report was processed. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting 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, \_\_\_\_\_

9/28/2023

