



**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. 7279-23  
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.

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 26 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 14 July 2023 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 4 April 2023 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The AO was provided to you on 14 July 2023 and although you were afforded an opportunity to submit a rebuttal, you chose not to 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 the fitness report for the reporting period 2 May 2018 to 31 December 2018. The Board considered your contention that the Reviewing Officer (RO) comments constitute a material error and lacked any substantial information required by promotion board members. You also contend that the RO did not include comments regarding your performance in the assigned billet and did not include a promotion

recommendation comment, resulting in an inaccurate depiction of your performance and an unfair disadvantage when judged against your peers. You claim that the RO comments could render the report adverse and could have caused you to fail selection during the Fiscal Year 2022 promotion board. You also claim that the comments refer almost exclusively to duties you performed at █ which occurred after the 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 Marine Corps Performance Evaluation System (PES) Manual. In this regard, the Board noted the RO comments and determined that comments did not violated the PES Manual. The Board also noted that the Reporting Senior recommended that you be promoted with peers, and the RO concurred. Thus, the lack of promotion recommendation by the RO is not basis to invalidate the RO's evaluation of your performance. The Board noted, too, that comments related to █ were mentioned throughout your fitness report, to include your billet accomplishments, RS comments, and RO comments. Even if the RO comments include duties performed outside the reporting period, it does not constitute a material error and would be transparent to a promotion board. 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,

10/4/2023

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