



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. 8941-23
Docket No. 8942-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your applications 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 applications, 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 applications have 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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your applications on 16 November 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies, as well as the 15 September 2023 decisions by the Marine Corps Performance Evaluation Review Board (PERB) and the 11 August 2023 Advisory Opinions (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30).

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined 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 reports for the reporting periods 1 January 2019 to 28 June 2019 and 29 June 2019 to 31 December 2019. Specifically, you contend the reports reflect "inconsistency and conflict" between the section I comments and the remainder of the evaluation. You further contend the Reporting Senior (RS) intentionally chose attribute markings to place you at the bottom of his profile "while simultaneously writing laudatory comments in section I" that misled your understanding of the overall report. Additionally, you contend these reports have "directly slowed [your] career progression and advancement with peers causing nearly an entire enlistment gap between." You further contend you did not submit applications for relief earlier "due to fear of retaliation" while on special duty assignment (SDA). You specifically contend the section

I comments of the report ending 28 June 2019 use recruiting terms that are unfamiliar to the average Marine and would potentially be misleading. You also contend the report ending 31 December 2019 was affected by several erroneous changes made to your record during the reporting period involving the removal of your SDA Marine Occupational Specialty.

The Board substantially concurred with the AOs and the PERB decisions that the reports are valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted there is no PES Manual scale to “match” the RS comments with his attribute markings, nor is any such scale viable or feasible. Looking specifically at the RS comments, the Board concurred with the AO and determined the comments were not laudatory. Further, the Board noted your submission omits any evidence to suggest that the highly experienced RS intentionally marked the attributes in a malicious manner. Lastly, the Board noted you did not submit any evidence suggestive of error or injustice within the Reviewing Officer’s evaluation, further weakening the argument the reports should be entirely removed. Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting removal of the contested fitness reports.

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,

12/11/2023

