



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

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Docket No. 8946-23
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.

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 5 December 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 15 September 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 16 August 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove your 1 September 2019 to 31 December 2019 Fitness Report. The Board considered your contentions that the Reporting Senior (RS) markings and evaluation do not align with the comments made throughout the reporting period nor the Section I comments. The Board also considered your contention that at no point did you receive a verbal or written negative counseling from the RS, but instead received positive feedback and praise. The Board also considered your assertion that the RS informed you it would be a "good starter fitness report as it was my first one with the unit and that my next one would be better and demonstrate growth."

However, the Board substantially concurred with the AO and the PERB Decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted you provided insufficient evidence, other than your personal statement, in support of your contentions. The Board noted pursuant to

the PES Manual there is no scale to “match” RS comments and attribute markings, nor is any such scale feasible or viable. The Board also noted your contentions regarding lack of verbal or written negative counseling, however the Board noted relief is not typically granted based on an alleged lack of counsel as counsel can take many forms. Moreover, the Board noted the RS comments were highly favorable and did not denote substandard performance. Further, the Board also noted you omitted any evidence suggestive of error with the Reviewing Officer (RO) evaluation and the RO comparative assessment placed you in the “6” block further diminishing your request for report removal in its entirety. Thus, the Board 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.

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, _____

12/18/2023

