



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. 9349-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 30 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 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 17 October 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 11 July 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30), and your rebuttal of 13 November 2023.

The Board carefully considered your request to modify the fitness report for the reporting period 1 July 2020 to 25 January 2021 by striking the Reviewing Officer (RO) portion. You contend the RO portion should be removed because he did not have the required sufficient knowledge and observation of your performance during the reporting period. You explain in your statement that your initial Reporting Senior (RS) physically assaulted you and was subsequently relieved of his duty. The resulting change required a Change of Reporting Senior (CH) fitness report wherein the previous RO became your new RS and Deputy Commander, █
█, assumed duties as RO. You contend that although he never interacted with you during or prior to the reporting period, the new RO elected to observe and comment on your performance and potential during the reporting period. In detail, your statement and rebuttal to the AO explain how the RO's decision compromises the integrity of the Performance Evaluation System (PES). In your rebuttal to the AO, you also contend the AO utilizes the incorrect section of the PES Manual in its analysis of whether the RO had sufficient observation of your performance during the reporting period. Specifically, you contend the standard for the RO's

determination of whether he had sufficient observation time is governed by page 2-5 of the PES Manual which states that, in the event of a sudden unforeseen change of the reporting officials, the RO must have “ample opportunity for observation” vice the standard discussed by the AO that states there are “no hard guidelines” and the RO must “make every effort.”

The Board, however, substantially concurred with the AO and the PERB decision the report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted the AO draws from both sections of the PES Manual in its discussion of the modification of the reporting chain and the RO’s determination he had sufficient observation to comment on your performance. The Board noted you omitted any specific discussion or amplification of what portions of the RO comments were in error/unjust and requiring correction. Further, the Board noted you do not contend the RO comments were inaccurate and/or misinformed; you just focus your contention on whether he had sufficient observation time. The Board also noted the PES Manual allows the RO’s personal observation to include a review of your Officer Qualification Record/Service Record Book, additional input from the RS, academic achievements, and observations of other leaders. Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting removal of the contested fitness report.

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,

12/19/2023

