



**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. 9360-23  
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 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 17 October 2023 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 18 July 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 17 October 2023, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not 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 August 2020 to 1 February 2021. The Board considered your contention that the fitness report was based on erroneous information and should be removed to protect the integrity of the Marine Corps Performance Evaluation System (PES) Manual and to ensure fairness. You also contend that the adverse fitness report stemmed from a counseling entry following an inspection by the Aviation Logistics Management Assist Team (ALMAT). However, the inspection results do not sufficiently support the statements made by the Reporting Senior (RS) and Reviewing Officer (RO). You further contend there were administrative errors, including blank non-availability dates, and you were temporarily assigned for 60 days during the reporting period, from 2 September 2020 to 31 October 2020. You claim that you were the sole officer to receive a counseling entry and adverse fitness

report based on the inspection results. You also claim that according to the PES Manual, “it is the responsibility of the third officer to address any inconsistencies or disagreements between the MRO’s attached statement and the RO’s statement regarding matters of fact.” Unfortunately, you were unable to present this and other evidence to the third officer to resolve the issues. Considering all these factors, you argue that it is evident that this report is both inaccurate and unjust.

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 that your fitness report was marked adverse for ‘Performance’, the RS commented that your performance did not meet the requirements of the billet and you were relieved from your position as the Officer-in-Charge (OIC) for unsatisfactory performance across the spectrum of responsibilities. The Board also noted your counseling entry, however the counseling was issued after the end of the reporting period and your reporting officials did not refer to the counseling entry in the fitness report. The Board noted, too, that you were afforded an opportunity to rebut the RS and RO comments, you availed yourself of the opportunity, and the Third Officer Sighter adjudicated the factual differences and found that the fitness report satisfied the requirements of the PES Manual. Based on the totality of the evidence, the Board determined that the underlying adversity was based on a host of shortcomings and not solely the results of the ALMAT inspection. The Board also determined that your Commanding Officer was best situated to determine the extent of your performance-based adversity and if your performance warranted your relief.

Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. The Board thus 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,

12/7/2023

