



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

██████████
Docket No. 8062-22

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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.

A three-member panel of the Board, sitting in executive session, considered your applications on 23 February 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 21 October 2022 decisions by the Marine Corps Performance Evaluation Review Board (PERB), the 20 September 2022 Advisory Opinions (AOs) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30), as well as your 17 January 2023 rebuttal.

The Board carefully considered your request to remove the fitness report for the reporting period 11 August 2018 to 31 May 2019 because the Reporting Senior's (RS) evaluation did not correspond to your primary duty actions during the reporting period. Specifically, you contend that you executed the RS's initial guidance and intent as directed during documented initial and follow-on counseling sessions as well as the Headquarters Marine Corps Casualty Section directed Casualty Assistance Calls Officer (CACO) duties. You further contend you were told by the RS almost daily that you were doing a "phenomenal job" and that actions you were taking were "impressive." However, you contend the result, a fitness report average of 3.29 and relative value of 80.00, does not correspond with your actions and performance, which you contend suggests the RS was not properly managing his RS profile. Further, you contend the RS erred by not counseling you before sending the fitness report to a Reviewing Officer (RO) who had only recently arrived instead of the RO who had more than 270 days of observation time.

The Board also carefully considered your request to remove the fitness report for the reporting period 1 June 2019 to 31 October 2019 because you did not receive a fair evaluation from the RS or the RO. Specifically, you contend this fitness report resulted in a lesser report average than the preceding first report, but without any supporting documentation, which again suggests the RS was not properly managing his profile. Further, even though your primary duty during the reporting period continued to be as CACO, this responsibility was omitted by the RS and RO and neither reporting official commented or evaluated your CACO duties. Additionally, you contend the RO marked “sufficient time” but marked the subsequent report as “not observed” even though the current reporting period was shorter than the period he marked “not observed.” You contend lack of professional interaction, physical separation, and the RO’s time on station during the reporting period impacted the RO’s evaluation of you during the reporting period.

Additionally, the Board considered the contentions raised in your rebuttal response to the AOs. You explain that you were disadvantaged before your arrival and did not receive the training necessary for your position. Although you did as directed, including your CACO tasking, you contend the fitness reports did not reflect your completion of assigned tasks. Additionally, you contend a toxic environment existed between yourself and the RS, which is evidenced by his evaluation of your performance and his skewed input to the RO, an individual you never met or corresponded with in any professional or non-professional capacity. Due to the toxic environment between yourself and the RS, you contend it is doubtful he will favorably endorse your requests to remove the fitness reports. Lastly, the Board considered the extensive documentation submitted with your rebuttal to the AO.

The Board noted the PERB modified the contested fitness report ending 31 May 2019 by marking the RO observation as “insufficient” and removing the comparative assessment and comments. The Board thus substantially concurred with the AO and the PERB decision that the report ending 31 May 2019, as modified by the PERB, is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted the RS portion is deemed valid as written because the RS had sufficient observation time of your assigned duty prior to and during your assignment as a CACO, as well as maintaining peripheral awareness of your ongoing and inherent responsibilities as a CACO. Further, however intricate the details of a temporary collateral duty as a CACO may be, the Board concurred with the AO that it is not error or unjust for those details to not be included in the fitness report nor does their absence result in incomplete information for future selection board consideration. Additionally, the Board substantially concurred with the AO that the relative value of the fitness report is a reflection of the RS’s rating history for Marines of the same grade and is not a determinant of whether a report is either satisfactory or unsatisfactory.

The Board also substantially concurred with the AO and the PERB decision that the fitness report ending 31 October 2019 is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted the fitness report is not invalid simply because it reflected a lower report average than your preceding fitness report by the same RS because the PES Manual does not preclude a RS from making attribute markings in a manner which results in decreasing, and not increasing, the report average. Further, the Board concurred that the RS attribute markings and the RO comparative assessment did not denote substandard

performance or require any justification. The Board further noted your duties as a CACO were documented, as required, in Section C but also noted the RS is not required to amplify the CACO duties or the other Section C billet accomplishment. Further, as previously noted above, however intricate the details of a temporary collateral duty as a CACO might be, it is not error or injustice for those details to not be included in the fitness report nor does their absence result in incomplete information for future selection board consideration. The Board also substantially concurred with the AO's determination the PES Manual grants a RO wide discretion in determining minimum observation criteria, and the fact the RO elected to review the observed performance evaluation did not invalidate the report.

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,

3/29/2023

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes or dates.