



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. 1695-24
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 19 March 2024. 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.

The Board determined that your personal appearance, with or without counsel, would 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 26 October 2013 to 14 March 2014. As an alternative, you request to remove the Reporting Senior (RS) attribute marks only. If granted, you request remedial consideration for promotion to Sergeant Major. The Board considered your contention that the RS did not formally or informally counsel on expectations at the outset of the reporting period. You claim that you did your due diligence to verify that a RS can be delinquent in their responsibilities by not providing an initial counseling and refusing to provide guidance on what is needed to meet expectations. As evidence, you cited Marine Corps Performance Evaluation Review Board (PERB) cases 463-18 and 464-18, in which the PERB found a fitness report "administratively and procedurally incorrect as written and filed." The PERB determined that the RS was delinquent in his responsibilities as they pertain to meeting the intent of the Marine Corps Performance Evaluation System (PES) Manual by not providing an initial counseling and refusing to provide guidance.

The Board substantially concurred with previous PERB and Board decisions that your fitness report is valid as written and filed in accordance with the applicable PES Manual. In this regard, Board noted the redacted PERB decisions, and PERB determination that “based upon the documentation provided by the petitioner . . . the petitioner suffered a clear injustice with the report as written” and “Section I was severely lacking in comments . . .” The Board also noted the PERB decision was based on sufficient evidence when finding the RS “delinquent in his responsibilities . . . by not providing an initial counseling and refusing to provide guidance.” The Board, however, found your new evidence insufficient to conclude that you were similarly situated as the Petitioner noted in the redacted PERB decision. Other than similarities in your contentions and desired outcome, the Board found no evidence of any resemblance to your case. The Board determined that the PERB finding that Petitioner’s RS was delinquent in his responsibilities, but did not come to the same conclusion based on the evidence of your case is not an error or injustice. The Board noted, too, that your billet description, billet accomplishments, and Section I comments are comprehensive and appear well informed. Moreover, your Reviewing Officer reviewed the RS’s assessment and concurred with the evaluation of your performance and conduct. The Board found insufficient evidence that you were not formally or informally counsel on expectations at the outset of the reporting period. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action or remedial promotion consideration. 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

4/4/2024

