



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



Docket No. 3420-24
Ref: Signature Date



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 14 May 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, as well as the 18 March 2024 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 13 February 2024 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.

The Board carefully considered your request to remove your adverse fitness report for the reporting period 31 July 2020 to 30 November 2020. The Board considered your contention that the Reporting Senior (RS) and Reviewing Officer (RO) should have submitted a not observed report due to having 89 days or less of observation and that the RS nor the RO deliberately counseled you during the reporting period. You further claim that prior to your relief, the RO approved the relief of your logistics chief due to performance and your remaining time with the battalion was not enough to resolve the sections shortcomings, especially without clear written guidance from the RS or RO. Furthermore, you also claim that you received different treatment than other officers on the battalion staff and that upon return from paternity leave, the RO publicly berated you for not updating products while executing leave and that on multiple other occasions, the RO publicly cursed you out, often in the presence of junior Marines. Finally, you claim that the RO used the fitness report as a negative counseling tool vice an accurate representation of your performance.

The Board, however 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 AO noted that the PES Manual defines a period of non-availability as a period of 30 or more consecutive days where the Marine Reported On is absent their duties. Next, the AO noted that the report is adverse. In this regard, the AO noted that you acknowledged and accepted the adverse nature of the report in your rebuttal to both the RS and RO while raising no concerns regarding the accuracy of the adversity during the processing of the report. The Board further noted you were relieved for cause for a pattern of substandard performance during work-up training. In the RO comments, he further explains that you were placed in charge of a section troubled with inexperience, poor procedures, and weak key subordinate leaders, all of which officers of your grade and time in service are expected to be able to overcome to which you were unable in more than 10 months.

Regarding your claim that you relieved your logistics chief prior to the RO's decision to relieve you, there was not enough time [for you] to resolve the sections shortcomings, and your claim that you were treated differently than the other staff officers in the battalion, however the Board determined you provided insufficient evidence to support these claims or how they would render the fitness report invalid. 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,

5/28/2024

