



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. 3431-24
Ref: Signature Date

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Dear █

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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 16 April 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 1 February 2024 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30), as well as your response to the AO.

The Board carefully considered your request to modify the Reviewing Officer's (RO) portion of your fitness report for the reporting period 22 December 2011 to 20 February 2012 to "Not Observed." The Board considered your contention the fitness report does not comply with the Performance Evaluation System (PES) Manual guidance in place at the time governing the submission of observed fitness reports. Specifically, you assert the fitness report covers a period of 61 days, the PES Manual specifies that Semi-Annual (SA), From Temporary Duty (FD), and Change in Status (CS) occasions should be observed for periods of 31 days or longer and your fitness report was a Transfer (TR) occasion. You further assert the PES Manual specifies minimum observation time is 90 days or longer except in previous cases aforementioned and therefore the report does not meet the minimum observation requirements. Furthermore, you also assert the Reporting Senior (RS) did not indicate in the Section I comments that an exception to policy was being invoked. Finally, in response to the PERB's decision, you further

contend that if Headquarters, Marine Corps (HQMC) determined the RS markings should be insufficient, that it would follow that the RO more likely than not did not have sufficient observation of your performance.

However, the Board substantially concurred with the AO and the PERB Decision that the report be retained as filed as modified. In this regard, the AO noted that removal of the Reviewing Officer (RO) portion would constitute an excessive degree of redress. The AO further notes pursuant to para 3006.7, while the RS evaluation is “not observed” for varied and valid reasons, the period covered may be sufficient for a meaningful RO assessment. Consequently, the RO is free to mark section K-3, comparative assessment, and comment as appropriate in K-4. Finally, the Board noted the PES Manual stipulates that reporting officials should take all possible action to reduce “Not Observed” fitness reports as they diminish the amount of useful information in a Marine’s performance record, take valuable time to prepare and process, and provide only continuity to a Marine’s record. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting further modification of the fitness report in question. 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,

5/9/2024

