



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

█
Docket No. 3434-24
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 30 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 furnished by the Marine Corps Performance Evaluation Review Board (PERB), and 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 chose not to do so.

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 your fitness report for the reporting period 1 September 2020 to 8 February 2021. The Board considered your contentions that the fitness report included inaccurate and unjust statements without supporting evidence. The Reporting Senior (RS) alleged extreme levels of incompetence without any supporting facts, specifics or examples, and the inclusion of numerous broad, opinionated statements goes against the Marine Corps Performance Evaluation System (PES) Manual. You also contend the Reviewing Officer (RO) did not ensure consistent, accurate, and unbiased evaluation and did not focus on eliminating inflated marks and unwarranted and unclear comments. You claim that you requested supporting evidence and the RS did not provide it. You also claim the report was processed without adherence to clear policies on the requirement of factual and specific

performance reviews as well as a reconciliation of factual differences between RS and MRO. The report was processed by MMRP, despite the Third Officer Sighter (3OS) agreeing, “there are no concrete examples of an unprofessional relationship.” Further, several contentions made by the RS to support the performance-based adversity in the report lacked objective evidentiary support, however, the 3OS attests that he validated this evidentiary support during his adjudication of factual differences.

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 contested fitness report was marked adverse for Performance, Effectiveness Under Stress, and Communication Skills. The Board considered the RS’s justification for the adverse attribute marks and Section I comments. The Board determined that the RS comments provided a factual basis for the performance-related adversity based on your relief for cause, failure to meet the requirement of your assigned billet, and failure to meet the RS’s expectations. The Board found no error in the RO’s evaluation of the fitness report or his evaluation of your performance. The Board noted, too, that you provided a statement and the 3OS adjudicated the factual differences raised in your rebuttal statement. Specifically, the 3OS addressed eleven factual differences in detail and indicated that he concurred with your argument as it related to one factual difference. The Board also determined that the 3OS’s concurrence with one fact did not constitute a basis to reject or invalidate the fitness report. The Board further determined that you were afforded due process in accordance with the PES Manual. In this regard, you availed yourself of the right to submit a statement, the 3OS adjudicated all factual differences, and your statement and 3OS’s adjudicated facts are properly filed in your official record for future boards to review. 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,

5/17/2024

█