



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. 4652-24
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 7 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.

The Board carefully considered your request to remove your fitness report for the reporting period 1 June 2021 to 30 April 2022. The Board considered your contention that the fitness report does not provide a fair and accurate account of your performance and potential. Once the report processed, you realized the markings, comments, and relative value communicated significantly below average performance during the reporting period. You also contend there is no substantiated documentation from the Reporting Senior during the reporting period to justify the markings and comments. As new evidence, you provided correspondence from the Head, Manpower Management Performance Branch (MMPB). You claim the correspondence supports your contention that the advisory opinion (AO) provided to the Marine Corps Performance Evaluation Board (PERB) unjustly influenced the outcome. Further, it states a need for corrective action to mitigate risk of producing similar opinions in the future and recommends removal of the contested report.

The Board, however, substantially concurred with the previous PERB and Board decision that your fitness report is valid and written in accordance with the applicable PES Manual. In this regard, the Board considered the correspondence from the Head, MMPB, but found the justification in support of your request unpersuasive and unsupported by evidence. The Board concluded that the AO did not unjustly influence the PERB's decision and noted the AO was factual and free of any impropriety. The Board determined that, even without the AO, the Command Investigation (CI)

was sufficient for the PERB and this Board to make a determination regarding your conduct and the proper processing of your fitness report. The CI substantiated your failure to perform your semi-annual weigh-in according to regulations. In addition, you were significantly out of height and weight standards during an impromptu weigh-in, conducted private events for senior Marines undermining transparency and creating the impression of a double standard, and you inappropriately used your position as commanding officer. The Board also determined the misconduct substantiated in the CI was sufficient to warrant an adverse fitness report. Although your reporting chain elected not to submit an adverse fitness report, your reporting chain was not prohibited from considering the substantiated CI findings in their evaluation of your performance, individual character, and leadership. 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,

5/21/2024

