



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. 6312-24
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.

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 20 June 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 13 May 2024 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 10 April 2024 Advisory Opinion (AO)¹ provided to the PERB by the Headquarters Marine Corps Performance Evaluation Section (MMPB-23).

The Board carefully considered your request to remove the annual fitness report for the reporting period 4 May 2015 to 30 June 2015 or make the report “not observed” due to insufficient observation time. Specifically, you contend the report should not have been observed because it only covered a period of 56 days and, during that time, you only physically met your Reporting Senior (RS) twice for a period of four total working days. Additionally, you contend the RS, who was a member of the Selected Marine Corps Reserve, did not establish a relationship with you, the Marine Reported On, as required by the Performance Evaluation System (PES) Manual nor was any “relationship” fully matured enough for you to have received a fair report. Lastly, you contend that the fact the RS marked four categories as “not observed” validates your arguments.

¹ The Board noted that paragraph 3.(7), at the top of the last page of the AO, does not apply to you, disregarded the information, and found the relevant information on the contested report.

The Board, however, substantially concurred with the AO and the PERB decision the report is valid as written and filed, in accordance with the applicable PES Manual guidance. The Board noted that, per the PES Manual applicable at the time of the 2015 fitness report, the RS stated, "Though period is less than 90 days, my interactions with [Petitioner] were sufficient to provide insight and his performance during a demanding time merits comment." Further, the Board noted there is no PES Manual requirement for you to be co-located with the Reporting Officials for observation to occur. Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting removal of the contested fitness report or modification to reflect "not observed." 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,

7/5/2024

