



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

█
Docket No. 6342-24
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 27 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 2024¹ decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 20 March 2024 Advisory Opinion (AO) provided to the PERB by the Headquarters Marine Corps Performance Evaluation Section (MMPB-23).

The Board carefully considered your request to remove the transfer fitness report for the reporting period 17 June 2022 to 31 January 2023². You contend the report is unjust because it is not written in accordance with the applicable Performance Evaluation System (PES) Manual, and the manner and nature of the report are contrary to the intent and guidance outlined in the PES Manual. Additionally, you contend the Reporting Senior's (RS's) Section I comments exemplify "damning with faint praise" and his below average markings in sections D.1, E.1, E.2, and F.3 are unwarranted. You also contend the RS created a threatening environment that prohibited you from performing your duties as the Executive Officer, specifically noting the RS's decision to replace the Deployment Readiness Coordinator (DRC) with his spouse, a non-government worker with no prior military experience who was not hired or vetted through a government hiring process. Further, you contend the RS did not provide quantifiable metrics for

¹ PERB decision document is incorrectly dated "May 13, 2020."

² If the Board granted relief, you requested removal of your Fiscal Year 2025 failure of selection for to Lieutenant Colonel.

demonstrating success or failure, and you were not counseled on the deficiencies noted by the RS nor given an opportunity to correct them. In support of your request, the Production Control Officer at Fleet Readiness Center East endorsed your request, concurring that the fitness report should be considered unjust.

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 absent evidence of the RS's marking philosophy, a determination cannot be made that the RS's baseline expectation for each gradable category did not in fact match the Performance-Anchored Rating Scales description of a "B." The Board further concurred with the AO in its review of the RS's Section I comments, specifically noting the comments "[id] not introduce any inkling of limitation to [your] capabilities." Lastly, the Board was not persuaded by your statement the RS created a threatening environment by his choice in DRC or that the DRC made you "unable to execute [your] moral and ethical responsibilities as the XO in providing counsel and ethical recommendations to the CO." In fact, if there was any overt impropriety with the RS's evaluation of your performance, the Board noted the Reviewing Officer failed to note it. Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting removal of the contested fitness report. 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,

7/11/2024

