



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. 8010-24
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 27 August 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies, as well as the 3 July 2024 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 10 April 2024 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMPB-23). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would 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 30 June 2022 to 30 July 2023. The Board considered your contentions and personal statement that your reporting senior (RS) made no attempt to conduct an initial counseling to establish your responsibilities or discuss expectations. You further contend that, at your request, a meeting later occurred to fulfill this requirement, and throughout the observation period, the RS made no attempt to counsel or formally engage with you on competency, efficiency, leadership, or performance expectations. You further contend that unsatisfactory performance was never mentioned but, in fact, the RS regularly referred to you as a top performer with outstanding leadership, professionalism, and initiative. Next, you contend that the RS deliberately and

directly compared you to his previous Marines and intentionally graded the report so that you would be at the bottom of his profile which is contradictory to MCO 1610.7B (PES). You further contend that there is a disparity between the word picture and relative value making the report contradictory and creating a bias of unsatisfactory performance when reviewed by a promotion boards. In support of your contentions, you provided a letter written by the RS to the fiscal year (FY) 2024 Promotion Selection Board that you claim proves the discrepancy between his assessment and the reports relative value (RV). The Board also considered your assertion that as evidenced by your alternate selection for promotion to master gunnery sergeant (MGySgt), it shows that you are abundantly qualified for promotion selection. Finally, the Board considered your contentions the report contains a clear inequality between the Reviewing Officer (RO) and RS that created a discriminating assessment of your actual performance.

The Board, however, substantially concurred with the AO and the PERB Decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the AO noted that the RS comments were favorable and fairly exceptional, and the RO elected to render the observation as “sufficient” marking block 7 also with fairly exceptional comments. The AO also noted that the report average generated a cumulative RV of 85.00, a likely concern; however, the Board determined you failed to offer a compelling argument that the RS conspired to intentionally write the fitness report with a low relative value, nor any similar or corollary indictment of the RO portion of the evaluation. Furthermore, the Board noted low relative value does not constitute grounds for removal of a contested fitness report. The fitness report was not adverse, did not reference any pending legal matters, and properly reflected your duty assignment. The Board further noted although an initial counseling is encouraged, it is not required before processing of a fitness report. Finally, the Board determined the RS and RO letters to the promotion selection board is not relevant to the contested fitness report as they were not bound by the PES Manual when providing the Promotion Board further context of a holistic overview of your performance during the reporting period. Thus, the Board 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,

9/25/2024

