



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. 10337-24
Ref: Signature Date

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Dear █,

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 5 November 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 11 September 2024 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), 4 June 2024 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch, and your response to the AO.

Regarding your request for a personal appearance, 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 the fitness report for the reporting period 20 June 2022 to 19 February 2023. The Board considered your contention that your Reporting Senior (RS) was untruthful about the reason you were relieved. You claim the real basis for your relief was documented in the relief of command counseling, during which you were not able to respond. The RS also failed to mentor you, only pointed out things he disliked, and characterized you as someone who lacked judgment and had problems during your entire time at the command, then nominated you to be the Aide for the Commanding General (CG) 14 days before your relief. You also contend the RS changed the reason that he was firing you, since you were instructed to act the way you did, you were selectively fired for doing something the RS commanded you to do, and the RS was untruthful to cover it up. You claim that a fellow commander took the same action and was not relieved. You further contend, the Reviewing Officer (RO) and Third Officer Sighter (3OS) both failed to speak to this fact. In response to the AO, you claimed an email that proves the cold weather event was a joint effort and is evidence the RS changed the reason for your relief.

The Board, however, substantially concurred with the 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 fitness report was marked adverse for "Decision-Making and "Judgement." The RS Section I comments note that you were relieved of Company Command for lack of trust and confidence after repetitive failures to follow orders. According to the PES Manual performance-based adversity refers to the Marines repeated inability to meet the RS's expectations and to accomplish the requirements of their assigned billet. The Board determined that your relief and adverse fitness report constitute performance-based adversity. The Board also determined that the RS properly and sufficiently described your shortcomings and why you were unable to succeed as company commander. The Board also noted that the RS commented on efforts to identify and address your shortcomings and efforts to teach, coach, and mentor you in an attempt to improve performance. This is supported by the RO's statement that he spoke with you and the RS extensively "on this matter as well as actions throughout the reporting period." The Board noted, too, that the 3OS found that the RS provided sufficient "factual basis for adversity" supported by five specific examples, whereby you failed to meet the RS's expectations.

The Board found your evidence insufficient to support your contention that the RS was untruthful about or changed the reason you were relieved. The Board noted that the RS ultimately lost trust and confidence in your ability to lead your company after repetitive failures to follow orders and to exercise sound judgement. Concerning your nomination as Aide to the CG, the Board noted that the RS also acknowledged your positive traits, such as your quick, analytical mind and retention of textbook information. The Board determined that the reporting chains comments indicate an intent to reassign you in a billet where you would have an opportunity to excel. Additionally, the Board considered the email regarding the cold weather event and found it unconvincing to prove that the cold weather event was a joint effort, and the RS changed the reason for your relief. In fact, the email only indicates that the lieutenant expressed discomfort that his decision to move the company staff forward reflected poorly on you and he did not believe you were relieved for getting into the "BV" with the █ Co leadership. Moreover, he found the RS fitness report comments to be accurate; you struggled to separate your role as a company commander and student; and he trusted the judgment of the command. The Board further determined that the status of your fellow commander is not germane to your request. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report or removal of your failures of selection. 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,

11/23/2024

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