



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. 10342-24
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.

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 12 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), 22 May 2024 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch. The AO was provided to you on 11 September 2024, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

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 modify the fitness report for the reporting period 8 November 2019 to 31 May 2020 by changing the Reporting Senior (RS) portion of the report to not observed. The Board considered your contention that the mathematical deviation of the report is significantly low, the Section I comments are inconsistent with the markings and do not match with how far below the RS average the report was marked. You also contend the attribute markings are inconsistent with the previous reporting period. According to the Marine Corps

Performance Evaluation System (PES) Manual, the RS must take care when making Section I comments to ensure the comments neither conflict with, nor obscure the remainder of the evaluation.

The Board, however, substantially concurred with the PERB's decision that you did not meet the burden of proof nor shown by preponderance of evidence a substantive inaccuracy or injustice warranting modification of your fitness report. The Board determined that your fitness report is valid as written and filed in accordance with the applicable PES Manual. The Board noted that the contested fitness report was your first in the grade of Major. Unlike your previous reporting period, you were evaluated against other Majors in your reporting official's profiles instead of Captains. The Board determined that the PES Manual does not provide a scale to match Section comments with attribute marks. The Board also determined that the perceived competitiveness of a report's relative value or comparative assessment mark is not a basis for modifying the report nor is it considered unjust solely because the relative value and/or comparative assessment mark are rated lower than other reports. 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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Deputy Director

Signed by: █