



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. 10343-24
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 19 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) and 7 June 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 chose not do so.

The Board carefully considered your request to remove the fitness report for the reporting period 1 July 2019 to 30 June 2020. The Board considered your contention that the fitness report was written to ensure you were placed at the bottom of the Reporting Seniors (RS) profile. You also contend the Marine Corps Performance Evaluation System (PES) Manual states the RS "should avoid the temptation to intentionally mark attributes in a manner that ensures the report will be at the bottom of their profile, while simultaneously writing laudatory comments to mislead the MRO into believing the report is laudatory." You claim you were the RS's first, second, and third report in his profile. You also claim the RS purposefully misled you into believing you were a solid performer while marking you below average.

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 removal of your fitness report. The Board determined that your fitness report is valid as written and filed in accordance with the applicable PES Manual. In this regard, the Board determined that your placement in the RS's profile is not evidence of an error or injustice. The Board noted the Section I comments and found them favorable, but not overly laudatory to be purposefully misleading. The Board also noted that your fitness report is not adverse and does not indicate substandard performance; therefore, the Board determined that the RS was not required to counsel you regarding your performance. The Board found no evidence that your performance or conducted rated higher marks than you received. Moreover, the perceived competitiveness of a report's relative value is not a basis for removal. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting removal of your 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,

12/17/2024

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Executive Director

Signed by: █