

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

> Docket No. 10365-24 Ref: Signature Date



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 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 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). Although, the PERB decision was provided to you, you did not provide a response.

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 modify the Section K Reviewing Officer (RO) comments on your Fitness Report for the reporting period 1 November 2021 to 1 June 2022 and if granted, to remove your failure of selection (FOS) by the Fiscal Year 2024 Captain Promotion Selection Board (PSB). The Board considered your contention that the comment, "Career designate and promote per needs of the Marine Corps," could be negatively interpreted, and further noted your assertion that despite being career designated, you were not promoted to Captain. The Board also considered your assertion that you received a total of four observed

fitness reports by the RO and your claims that although the reports relative value (RV) was higher, the RO comments contradicted the grades and RV of your Fitness Report.

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 Board determined your contentions lack validation beyond your personal statement. The Board noted, the fitness report was not adverse referenced no legal matters, and accurately reflected your duty assignment. The Board further noted pursuant to the PES Manual, RV is a metric derived from the Reporting Senior's (RS) historical profile, distinct from RO comments. Thus, the Board concluded RV is not a basis for evaluating the accuracy or appropriateness of a fitness report, as grades reflect individual performance, not an averaged or perceived RV. Finally, the Board noted your claims regarding contradictions between RO comments and RS grades were immaterial, as the RS and RO profiles are evaluated independently. Furthermore, perceived competitiveness based on RV or comparative assessment marks is insufficient justification for Fitness Report modification. Finally, the Board noted your request for removal of your FOS, however, the Board acknowledged your subsequent selection by the FY 2025 Captain PSB, concluding the contested fitness report did not directly impact your previous FOS. 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,