



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

██████████
Docket No. 10375-24
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 26 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. In addition, the Board considered the 11 September 2024 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 29 April 2024 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMPB-23). Although you were provided an opportunity to respond to the AO, 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 modify the Reviewing Officer (RO) comparative assessment in Section K of your Grade Change (GC) Fitness Report for the reporting period 27 January 2010 to 24 May 2010, as well as your request to remove your Failures of Selection (FOS) to Lieutenant Colonel. The Board considered your contention that the RO's comparative assessment mark of "4" is inconsistent with your performance, particularly given that the same RO assigned you a "5" mark in the two preceding fitness reports and your Reporting Senior's evaluation improved during this time. You assert that your performance remained consistent

across reporting periods and, pursuant to the Performance Evaluation System (PES) Manual guidance, the RO comparative assessment should align with the prior report in back to back reporting periods. Additionally, you claim this inconsistency warrants correction and that your attempts to contact the Reporting Senior (RS) and RO were unsuccessful as both are no longer active-duty Marines.

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 PES Manual guidance. In this regard, the Board determined other than your personal statement and your claims, you provided insufficient evidence to support your request for substantive change to the contested report. Next, the Board noted although the PES Manual suggests that RO assessments in consecutive reports should reflect consistency when performance remains unchanged, the guidance explicitly uses the term “should,” and not “shall” or “will,” allowing the RO discretion when determining comparative assessments, based on their judgement and available information, including personal observation and input from the RS. The Board further noted you provided no correspondence or statements from the RO to substantiate your claims of error to support of revision of the RO’s assessment. The Board noted too, as explained in the AO, a difference in RO marks across multiple fitness reports is not, by itself, sufficient to establish error or justify modification; especially given the discretionary nature of RO evaluations as explained in the PES Manual. Lastly, the Board further noted you provided insufficient evidence to conclude the fitness report issued more than ten years ago when you were a first lieutenant caused your 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,

1/16/2025

