



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. 10479-24
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 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, as well as the █ decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), █ 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 remove all adverse marks and comments from your fitness report for the reporting period 6 August 2019 to 4 January 2020; alternatively, you request to remove the fitness report. The Board considered your contentions that the Reporting Senior (RS) comments are vague, generalized, and do not indicate a failure at "time and resource management, task prioritization and tenacity to achieve positive ends consistently." You also contend the "RS should highlight efforts to identify and address the MRO's [Marine Reported

On] shortcomings and efforts to teach, coach, and mentor the MRO in an attempt to improve performance.” You claim that your performance was not discussed, nor was there an attempt to assist in the correction of perceived lack of performance in duties and responsibilities.

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 noted that you were relieved for cause due to performance-based adversity, specifically, for bullying and harassing a subordinate and for substandard leadership that created a hostile and dysfunctional work environment. The █ (█), commented that you were the subject of a command investigation regarding a possible violation of the Prohibited Activities and Conduct (PAC) Order; the investigation found that you violated the PAC order; the Commanding General substantiated the findings during the reporting period; you were relieved due to the substantiated findings; and you were formally counseled on 23 January 2020. The Board also determined that your RS’s decision to record your relief or cause as performance-based adversity is not an error. Performance-based adversity includes identified shortcomings with your performance, failure to meet the RS’s expectations to accomplish the requirements of your assigned billet, or failure to demonstrate the professional abilities commensurate with their grade and experience. The Board further determined that your reporting chain adequately documented the basis for performance-based adversity. Additionally, the Board determined that the nature of your performance was substantiated in a command investigation, necessitating your relief for cause and did not require assistance “in the correction of perceived lack of performance in duties and responsibilities.” 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,

12/11/2024

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