



This is in reference to your reconsideration request 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.

A three-member panel of the Board, sitting in executive session, considered your application on 11 March 2025. 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. The Board also considered the 14 January 2025 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 18 December 2024 Advisory Opinion (AO) provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-23). The PERB Decision and the AO were provided to you on 14 January 2025, and you were given 30 days in which to submit 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 remove the fitness report covering the period 1 July 2021 to 31 May 2022 and grant a special selection board (SSB) based on removal of the contested report and the fact PERB previously modified another fitness report covering the period 11 July 2019 to 31 May 2020. You argue the contested report is in violation of the Performance Evaluation System (PES) Manual due to the reporting senior (RS) being of equal rank to you and the Reviewing Officer (RO) not providing sufficient comments in Section K of the report authorizing an equivalent grade officer to serve as the RS. In addition, you argue the RS assessment was biased as you and the RS were in peer competition status as Captains from 2006 to 2008.

The Board concurred with the AO that the RO adequately supported the RS's authority to write the report as the RS was the Chief Trial Counsel and you were the Regional Trial counsel, thus a standard supervisory framework existed. In addition, the AO noted the RS was a Colonel Select when the report was written and subsequently promoted to Colonel shortly after the report was processed. Finally, the Board concurred with the AO that it was immaterial you and the RS were in the same unit 10 years prior to the report being written and found there was insufficient evidence that your performance warranted higher ratings or that the RS evaluation was biased.

With respect to your request for a SSB, the Board noted that the Manpower Management Performance Branch previously determined you were not eligible for a SSB as the FY25 Colonel Promotion Selection Board convened on 26 July 2023 and you did not petition PERB until 28 August 2023. As the Board concurs with the PERB decision that the contested report contains no material error or injustice and shall remain in your official military personnel file as written, therefore there is no subsequent justification for a SSB.

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,

3/27/2025

