

DEPARTMENT OF THE NAVY

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

> Docket No. 997-25 Ref: Signature Date

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.

A three-member panel of the Board, sitting in executive session, considered your application on 4 June 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, as well as the 14 January 2025 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), 2 October 2024 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch, and your response to the AO.

The Board determined that a 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 or modify your fitness report for the reporting period 3 June 2023 to 29 February 2024 by changing it to not observed. The Board considered your contention that the Reporting Senior (RS) signed and submitted your report after he had been relieved for cause and a new RS was in place. You also contend the Reviewing Officer (RO), having relieved your RS for cause, and knowing he was not your RS when the report was processed, committed a legal error by signing and submitting the report. You assert that the timing of the report and preparation left no other choice but for the RO to assume the role as RS.



In rebuttal to the AO, you contend the RO statement, "top of my 6-block" should not have been included because it brings a level of ambiguity to the comparative assessment that will confuse future promotion boards when read in context with the comparative assessment. You assert that you have proven the RS was disqualified to prepare the report, proven the RO should have assumed the role as the RS, and the RO materially abandoned his duty.

The Board, however, substantially concurred with the PERB's decision that you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report. The Board determined that your fitness report is valid as modified in accordance with the applicable Marine Corps Performance Evaluation System (PES) Manual. In this regard, the Board noted that the PERB approved a correction to your record by changing the RS portion of your contested fitness report to not observed. The Board also determined that your basis to modify the RO portion of the report or to remove the fitness report lacks merit. The Board also determined that the RO's decision not to assume the role as RS in no way disturbs his evaluation as your RO. Concerning the contested RO comment, the Board determined that your assertion is conjecture and is not supported on any evidence. The Board found no error or ambiguity in the RO's comment and determined that the comment added favorable context to your placement in his profile. Moreover, the Board found the PERB's corrective action was sufficient to remedy the RS's erroneous observation. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting additional 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.

