



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. 1411-21
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.

A three-member panel of the Board, sitting in executive session, considered your applications on 4 November 2021. 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies, as well as the Advisory Opinion (AO) provided by the Navy Personnel Command (PERS-32) and your 30 September 2021 rebuttal.

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.

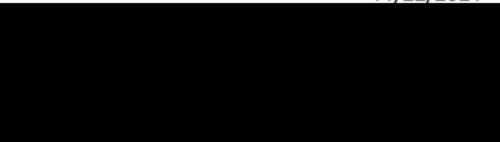
The Board carefully considered your request to remove your Fitness Report & Counseling Record (Fitrep) for the reporting period 1 November 2019 to 31 October 2020, and replace with a new Fitrep or, if not granted, blocked out for promotion boards. You also requested that your record be evaluated for promotion to Commander/O5 should your request be granted. The Board considered your contentions that your Reporting Senior treated you unprofessionally and unfairly by presenting a Fitrep that was not reflective of your actual performance, and the first [promotion] board is approaching and with this Fitrep on record, you will be passed over for promotion. You assert that the treatment you received was beyond egregious and reprehensible; it was deplorable and not how a commissioned officer, let alone a Commanding Officer, should act towards a subordinate.

The Board, however, substantially concurred with the AO that the Fitrep is valid as written and filed, in accordance with the applicable Navy Performance Evaluation System (PES) guidance. Specifically, you provided insufficient evidence or supporting documentation to establish any injustice by your Commanding Officer to substantiate your allegations above. The Board noted you received a decline in two performance traits but an increase in one performance trait from your previous Fitrep; however, in accordance with the PES Manual, that does not indicate a declining nor adverse Fitrep. The Board further noted that although you had an opportunity to provide a written statement to the Fitrep, you chose not to do so. The Board thus concluded that your request is lacking in substantial evidence of an error or injustice warranting removal of this report. The Board further noted that it is not within its authority to block the contested Fitrep from review by promotion selection boards.

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,

11/22/2021

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Deputy Director

A black rectangular redaction box covering the name of the Deputy Director.