



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: 1859-21

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 application on 9 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 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 9 March 2021 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 25 January 2021 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The PERB decision and the AO were provided to you on 9 March 2021, 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 modify your fitness report for the reporting period 18 July 2017 to 11 December 2017 by changing the reporting senior (RS) portion of your fitness report to be not-observed. If approved, you request to remove your failures of selection incurred during the Fiscal Year (FY) 2021 and FY 2022 Marine Corps Lieutenant Colonel (LtCol/O-5) Promotion Selection Board (PSB). The Board considered your contention that your RS submitted your contested fitness report without the required Marine Corps Performance

Evaluation System (PES) Manual justification. You claim that 84 of the 146 days covered during the reporting period constituted periods of non-availability. Specifically, the first 29 days included your execution of permanent change of station orders (PCSOs) and 50 days were spent completing a Category III aircrew refresher syllabus. You also claim that your fitness report was one of five fitness reports with a relative value during the LtCol PSB and it was the only fitness report processed while you served in your Primary Military Occupational Specialty (PMOS). You speculate that your fitness report may have had an outsized impact on the promotion board's perception of your performance. As evidence, you furnished your PCSOs, refresher syllabus and correspondence from your former RS to the FY 2021 LtCol PSB.

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted your periods of absence, however, the Board determined that not all periods of absence constituted official periods of non-availability according to the PES Manual. The Board also noted the correspondence furnished by your former RS and determined that his letter to the PSB does not constitute an official endorsement for the modification of your fitness report. The Board determined that your Section I comments sufficiently addressed your attribute marks, relative value and short period of time with the squadron. Based on the foregoing determination, the Board found no basis to remove your failures of selection. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

12/1/2021
[REDACTED]
Executive Director
[REDACTED]