



**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: 1867-21  
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 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 16 March 2021 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 15 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 16 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.

Your petition was previously reviewed by the Board on 20 August 2019 (Docket No: 6745-18) and the Board denied your request to remove your non-judicial punishment (NJP) and Administrative Remarks (page 11) entry documenting your NJP. The Board, however, did grant the removal of your page 11 entry not recommending you for promotion and you were directed to exhaust your administrative remedies by submitting a petition to the PERB for the removal of your adverse fitness report.

Your petition does not contain any new material or evidence regarding your initial application, therefore, the Board limited its consideration to your request to remove your fitness report for the reporting period 1 January 2017 to 19 June 2017. The Board considered your contention that

your reporting senior's (RS's) comments contradicted your attribute marks and the allegations that you fraternized with a junior female Marine. You argue that the Third Officer Sighter (3OS) only relied upon the preliminary inquiry in his response to your fitness report and the 3OS did not actually resolve any factual differences, because there are still two inconsistent statements provided by the Masters at Arms (MAs) from the evening of the incident. You also argue that your fitness report was not submitted in a timely manner, and before your contested fitness report was processed, you received another fitness report, in which you received D and C attribute marks.

The Board, however, substantially concurred with the PERB decision and MMRP-30 AO that your fitness report is valid and should be retained as filed. In this regard, the Board noted that your fitness report was marked 'Adverse' for 'Disciplinary Action' based on your 18 June 2017 NJP. The Board determined that your NJP constituted disciplinary action, which appropriately triggered your report's adversity, adverse mark for 'Setting the Example' and your RS's determination not to recommend you for promotion. The Board also noted that you were afforded the opportunity to rebut your report's adversity and did so without introducing any significant factual differences. The Board determined that your RS was not restricted to only commenting on your misconduct and the fact that you received favorable marks in other attributes does not invalidate your report's adversity.

Concerning your contentions that the 3OS relied solely upon the preliminary inquiry and that the MA's statements were inconsistent, the Board found no evidence that the 3OS did not take the appropriate action to review and resolve inconsistencies and matters of fact and you provided none. The Board substantially concurred with the 3OS's determination that the MA's statements were valid and obtained by a qualified and impartial professional in the conduct of their assigned duties. 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

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Executive Director  
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