



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

█
Docket No. 1984-21
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 October 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 by the Marine Corps Performance Evaluation Review Board (PERB), and the 3 December 2020 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and 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.

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 13 August 2016 to 18 January 2017 Fitness Report and replace with an administrative filler. The Board considered your following contentions: the Reporting Senior (RS) recommended you for promotion by checking 'box 7a' of the report, but failed to annotate your promotion and retention recommendations in "Section I" comments; the Reviewing Officer (RO) concurred with comments and markings, but marked you

lower on his comparative assessment while the RS marked you higher when compared to the first report received from the two gentlemen; in "Section K", the RO was referring to a time period of less than three (3) months that was non-observed when you were at a staff section; the RO was not your RO during that time period; the unjust comments do not accurately reflect the observed time; the RO failed to annotate his recommendations for promotion and retention; the RO evaluated you as an Assistant Training Chief and not a Warehouse Chief, which was your observed billet prior to executing orders; the report negatively affects the averages on your Master Brief Sheet (MBS); and you believe the RO used the fitness report as a counseling tool.

The Board substantially concurred with the AO that the report is not valid as written, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. The Board also concurred with the AO's recommendation to modify the report by removing "Section K" in its entirety, and as amended by the PERB's decision. As such, the Board took this into consideration, as well as the decision by Manpower Management Records and Performance Branch (MMRP) to remove the RO Comments, and reviewed your request as modified by the PERB and MMRP. In this regard, the Board noted you did not provide factual evidence to support your contention that the RO used this report as a counseling tool or that the report negatively affects your MBS. Furthermore, the Board noted that absent the "Section K" assessment and comments, the RS' evaluation of you is accurate as depicted and therefore, the report is valid as written. The Board thus concluded that your request is lacking in substantial evidence of error or injustice warranting removal of this report.

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, _____

10/31/2021



Executive Director

Signed by: 