



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: 2630-21
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 7 December 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 29 April 2021 advisory opinion (AO) provided by the Navy Personnel Command, (PERS-32). The AO was provided to you on 4 May 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 carefully considered your request to remove your fitness report for the reporting period 1 February 2020 to 28 May 2020. The Board considered your contentions that it would have been difficult to be evaluated because you were temporarily assigned away from the command during two months of the four month reporting period, COVID protocols were in effect during the reporting period, and closed doors would have made it difficult to observe your performance. You also contend that your fitness report promotion recommendation was a 1 to 1 marked Must Promote (MP), and although your report is not adverse, it is subtle with the intent to derail your career. You claim that according to the Navy Performance Evaluation System Manual (EVALMAN), under unique circumstances, a reporting senior (RS) can submit a not observed (NOB) report for any period if the RS does not feel that there has been enough observation to grade with confidence. You also claim that your RS indicated that she did not intend to change or amend your fitness report after it has been signed and included in your record.

The Board, however, substantially concurred with the AO that your fitness report is valid and should be retained as filed. In this regard, the Board noted that according to the EVALMAN, the RS has the discretion to elect to submit a graded fitness report. The Board also noted that your fitness report is not adverse, contains no adverse performance traits, your RS recommended you for promotion to O-4, and you received the second highest promotion recommendation. The Board found no evidence or subtle indications of adversity and you provided none. The Board determined that your RS acted according to regulations and within her discretion authority when submitting your fitness report. 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,

12/17/2021

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Deputy Director

Signed by: █