



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

█  
Docket No. 3776-21  
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.

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 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 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 24 May 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 12 April 2021 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 24 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 modify your fitness report for the reporting period 2 December 2008 to 27 May 2009 by removing the Reviewing Officer (RO) comparative assessment marking. The Board considered your contention the RO comparative assessment is unjust, "does not align to the comments provided," and "skews the performance rating." The Board also considered your contention the RO assigned you a "welcome aboard" rating as evidenced by the fact there are no derogatory comments to justify the RO's lowest rating in his profile. Lastly, the Board considered your contention the RO did not observe the period of performance because you were deployed to Iraq and he remained in Okinawa.

The Board, however, substantially concurred with the AO and the PERB decision that the report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted you did not submit evidence, beyond your statement, that would suggest overt RO malfeasance or that your performance and conduct warranted a higher comparative assessment mark. Further, the Board noted there is no PES Manual guidance requiring RO justification for a 3-block comparative assessment marking. The Board thus concluded your request is lacking in substantial evidence of error or injustice.

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,

11/19/2021

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Executive Director

Signed by:

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