



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

█  
Docket No: 4577-21

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 1 February 2022. 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 15 July 2021 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 7 April 2021 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The AO was provided to you on 15 July 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 reports for the reporting periods 17 December 2007 to 2 March 2008 by changing your fitness report to be not-observed. If approved, you request to remove your failures of selection. The Board considered your contention that your reporting senior (RS) admitted that he changed his marking philosophy over time, therefore the attribute markings on the contested report no longer reflect your level of performance during the reporting period. You also contend that your reviewing officer (RO) significantly altered his marking philosophy for first lieutenants (1stLts) after submitting your report. You claim that your Master Brief Sheet (MBS) is evidence that your RO abandoned placing 1stLts in the 3 and 4 blocks after your report was submitted. You also claim that the significant shifts in marking philosophies by your reporting officials unjustly portrayed your

level of performance lower than it actually was. As evidence, you furnished correspondence from your former reporting officials.

The Board substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted the correspondence furnished by your former reporting officials, the Board, however, determined that your reporting official's request is untimely and insufficient to warrant a substantive change to your fitness report. The Board also noted that according to the Marine Corps Performance Evaluation System Manual, your observed from temporary duty (FD) fitness reports was required, the period of observation exceeded the required 31 days of observation, and your reporting officials previously observed your performance for more than five months. The Board found your MBS insufficient to conclude that your RO changed his marking philosophy and determined that your RO's comments demonstrate that he have had sufficient knowledge of your performance to observe your fitness report. Based upon the foregoing determinations, the Board found no basis to warrant the removal of 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,

2/14/2022

[REDACTED]  
Executive Director  
[REDACTED]