



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

█  
Docket No. 4663-21  
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 3 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 23 July 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 20 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 23 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 change the Reviewing Officer's (RO) observation from "observed" to "not-observed" on your 17 June 2017 to 30 July 2017 Fitness Report (Fitrep). The Board considered your contentions that the Fitrep could be interpreted as a negative report and it shows a drop in the RO rating. You assert that the marking has the ability to be negatively perceived by board members and the Fitrep detracts from your performance record.

The Board, however, substantially concurred with the AO and the PERB decision that, in accordance with the Marine Corps Performance Evaluation System (PES) Manual, the Fitrep was procedurally correct as written and filed. In this regard, the Board determined that your RO

adhered to PES Manual guidance when placing you in the '6' block of the Comparative Assessment, and provided his clear intention for placing you there in his letter to the President of the Fiscal Year 2020 Major Selection Board. The Board noted that you were promoted to the rank of Major on 2 April 2019 and determined that the drop in the RO rating did not negatively impact your opportunity to promote to the next rank. The Board further noted that you did not provide any substantial documentation to support your request to reclassify the RO's section as 'not observed.' The Board thus concluded that your request is lacking in substantial evidence of error or injustice warranting removal of the fitness report from your OMPF.

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,

2/18/2022

