



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: 5345-21
Ref: Signature Date

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Dear █

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 8 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. The Board also considered the 11 August 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) (the PERB Decision), and the 26 April 2021 Advisory Opinion (AO) provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The PERB Decision and the AO were provided to you on 11 August 2021, and you were given 30 days in which to submit a response.

The Board further 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 the adverse fitness report covering the period 27 December 2013 to 25 August 2014. You argue that the report is unjust as your reporting senior (RS) made comments that were factually inaccurate and unjust. In addition, you contend your chain of command improperly used the report as a disciplinary tool and as a counseling document.

The Board concurred with the AO that the reporting chain provided the required justification for each adverse attribute marking and also properly included amplifying comments in Section I and Section K. The Board further noted that you did not provide any evidence to support your contention that the report was used as a disciplinary tool and that reporting officials were not required by regulation to place negative page 11 entries into your official military performance record to support the attribute markings or the comment that you were “formally counseled.” Therefore, the Board determined that there was insufficient evidence to show error or injustice. Consequently, the Board found that the fitness report is administratively correct and shall remain in your official military personnel file as written.

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,

2/16/2022

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Executive Director

Signed by: 