



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

[REDACTED]
Docket No: 5426-21
Ref: Signature Date

[REDACTED]

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 15 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 11 August 2021 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 8 April 2021 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-13). The AO was provided to you on 11 August 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 July 2017 to 30 June 2018. The Board considered your contention that your marks were issued as reprisal for your participation in at least two Inspector General (IG) complaints submitted against your reporting senior (RS) by other Marines and his subsequent relief as the commanding officer (CO) of the Recruiting Station. You also contend that the relative value of your fitness report decreased by 20% from your previous fitness reports by the same RS. You claim that the fitness report was completed during the investigation.

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted that during the contested reporting period, you were assigned as the Recruiting Sub Station (RSS) Staff Non-Commissioned Officer (SNOIC)—a different billet assignment than the previous reporting

period. The Board also noted that your reporting officials commented that you experienced challenges and turbulence during the reporting period, and provided statistical data in support of their comments. The Board determined that your performance during the previous or subsequent reporting periods is immaterial, each reporting period is unique and based upon your performance during that period of time. The Board found no evidence that your participation as a witness in the IG investigations impacted your reporting official's evaluation of your performance. You also indicate in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC § 1034. 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,

2/25/2022

