



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

█
Docket No: 5441-21
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 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 15 July 2021 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 11 February 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 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 remove your fitness report for the reporting period 1 August 2009 to 27 June 2010. The Board considered your contention that your reporting senior (RS) did not take care when writing your Section I comments to ensure they did not conflict with, nor obscure, the remainder of the evaluation. You also contend that the RS marked the fitness report to ensure the relative value remained at the bottom of his profile, while simultaneously writing laudatory comments.

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 your master brief sheet and that the RS's profile consist of only four fitness reports, of which you were the Marine Reported

On for two of his four fitness reports, and your subsequent reports' relative valued was 100.00%. The Board determined that your contention lacks merit, your contested fitness report is not at the bottom of your RS's profile and your fitness report is not unjust because the RS evaluated another Marines performance higher than yours. The Board also noted your Section I and determined that the comments were positive, but not excessively laudatory in nature. In addition, the Board found no evidence of facts that were not known when your fitness report was processed or that your performance and conduct warranted higher marks than you received and you provided none. 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

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Executive Director

Signed by: █