



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

█
Docket No. 5718-21
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.

A three-member panel of the Board, sitting in executive session, considered your application on 27 January 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 27 August 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 1 July 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 27 August 2021. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

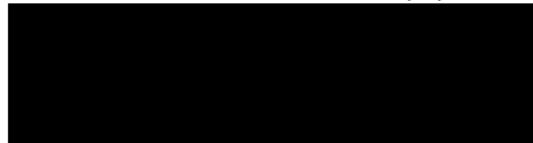
The Board carefully considered your request to remove your 18 November 2019 to 21 January 2020 Fitness Report (Fitrep). The Board considered your contentions that the Fitrep is unjust due to multiple areas of negligence on the part of the Reporting Senior (RS). Specifically, that the RS wrote nearly identical Section I comments in two separate reports, the RS copied the comments from your Second Lieutenant report and used them in your First Lieutenant report, the RS submitted the Fitrep to the Reviewing Officer (RO) late, and the RS failed to counsel you or provide justification for the same Section I comments due to the late submission. You assert, after conversing with the RO, that the late submission by the RS made it nearly impossible for the RO to give you a fair evaluation due to the Fitrep deadline. You further contend that the RS' marks and copied comments from the previous report negatively influenced the RO to rank you lower in his profile, and because the RS retired shortly after submitting the Fitrep in question, you believed him to be negligent.

The Board, however, substantially concurred with the AO. Specifically, that the Fitrep was in accordance with the Marine Corps Performance Evaluation System (PES) Manual, and was not deemed adverse. The Board determined that although the RS copied Section I comments from your preceding fitness report, the RS' actions were still in compliance with the PES Manual and did not include any negative or adverse phrases. Furthermore, the Board noted you did not provide any documentation or reference, other than your interpretation of the RS' evaluation, to support your contentions that the RS negatively influenced the RO's evaluation. While the Board considered that the Fitrep was submitted one day late, they agreed with the AO that this fact alone does not invalidate the Fitrep. Finally, the Board found no evidence that would support a finding that your performance and conduct warranted higher marks than assigned by the RS in the challenged Fitrep. The Board thus concluded that your request is lacking in substantial evidence of error or injustice warranting removal of the Fitrep from your record.

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

A large black rectangular redaction box covering the signature area.

Executive Director

A black rectangular redaction box covering the name of the Executive Director.