



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. 5732-21
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.

A three-member panel of the Board, sitting in executive session, considered your application on 10 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 8 December 2020 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 27 October 2020 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 9 December 2020. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove your 1 April 2019 to 13 November 2019 Fitness Report (Fitrep). Alternatively, you requested the Board change the Fitrep from 'observed' to 'not observed.' The Board considered your contention that the Fitrep was not focused on your performance, but rather, it was likely rendered adverse as a result of requesting mast on two separate occasions. You assert that there were five reiterations of the Fitrep in an attempt by your reporting officials to lower your markings, promotion recommendation, and comments.

You also contend that the Performance Evaluation System (PES) Manual does not require the Fitrep be rendered adverse based on the Page 11 6105 counseling you received during the reporting period. You assert the RS submitted the Fitrep without having seen your rebuttal and without speaking to you until after the fact. You argue that, based on the lack of documented adversity concerning your overall professional conduct and performance as a Sergeant, coupled

with documented violations of the PES Manual, to include late submission of the Fitrep, you feel that this adverse report is unjust. You further assert you were being unfairly singled out and anything you did was turned against you.

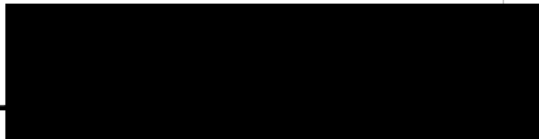
With regard to the removal of your Fitrep, the Board substantially concurred with the AO and the PERB decision that, in accordance with the PES Manual, the RS provided factual basis for the adverse nature of the report—the issuance of your Page 11 6105 counseling—and that the Reviewing Officer concurred with the evaluation and adverse nature. The Board also noted that, by signing the 6105 counseling, your Commanding Officer indicated that he believed it to be appropriate based on the facts and circumstances, using a preponderance of the evidence standard.

The Board noted that although the Fitrep was submitted late, that does not invalidate the Fitrep, as it is otherwise procedurally correct as written and filed, and it was appropriately adjudicated by a Third Officer Sighting. The Board further noted that you did not provide any evidence to support your contention that your request mast submissions negatively affected your evaluation.

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,

3/8/2022

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Deputy Director

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