



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. 5744-21
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.

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 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 7 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.

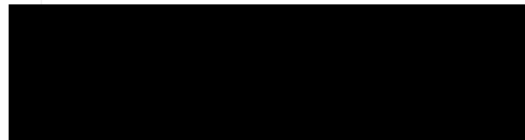
The Board carefully considered your request to remove your 24 September 2008 to 31 October 2008 Fitness Report (Fitrep). The Board considered your contention that the Fitrep violates Performance Evaluation System (PES) Manual guidance in that the Reporting Senior (RS) did not “avoid temptation to intentionally mark attributed in a manner that ensures relative value will be at the bottom of the profile while simultaneously writing laudatory comments in Section I to mislead the Reviewing Officer (RO) to believe the overall report is laudatory.” You further contend that statements in Section I of the Fitrep are misleading as the Fitrep had a relative value of 80.00, both at processing and currently, indicating it was intentionally marked at the bottom of the RS profile.

The Board, however, substantially concurred with the AO and the PERB decision that the report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, while the Board did note the RS' Section I comments were favorable, they determined that you provided no substantial justification, other than your subjective interpretation of the RS' intention, that the RS intentionally marked your attribute markings to ensure you were at the bottom of his profile. The Board agreed with the AO that the simple fact your evaluation was graded at 80.00 at processing, and remains at 80.00, does not necessarily signify error or injustice since it could document that the RS' assessment remained consistent as his profile expanded. Finally, the Board also concurred that the comments in the Fitrep were not laudatory, over and beyond standard praise, to support your contention that the RS sought to deceive the RO. The Board thus concluded that your request is lacking in substantial evidence of error or injustice warranting removal of this report 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

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Executive Director

Signed by:

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