



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: 5767-21
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 1 March 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. The Board also considered the 13 September 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) (the PERB Decision) and the 29 June 2021 Advisory Opinion provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30) (the AO). The PERB Decision and the AO were provided to you on 13 September 2021, and you were given 30 days in which to submit a response.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to modify the fitness report covering the period 8 December 2017 to 19 July 2018 by changing the reviewing officer (RO) Comparative Assessment marking from '4' to '5'. In the alternative, you ask to remove the report in its entirety. You contend that the RO, due to bias against you, unjustly gave you a lower Comparative Assessment mark. As evidence, you note that your reporting senior (RS) marked 'F' in Section E.1 of the report for 'Courage' and the RO disagreed with that assessment and stated in Section K that the justification for the 'F' mark lacked specificity.

The Board concurred with the AO that the report was not adverse; thus, there is no requirement for counseling and that the RO complied with Performance Evaluation System Manual guidance. You also indicate in your application that you were the victim of reprisal by your RO. The Board, however, determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. The Board further determined there was insufficient evidence to substantiate your claim that your RO used the report as a counseling tool. Consequently, the Board concluded that the contested report is administratively correct and shall remain in your official military personnel file as written.

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,

3/11/2022

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Executive Director

Signed by:

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