



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

█
Docket No. 5793-21
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 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 13 September 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 14 June 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 13 September 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 determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove the fitness report covering the reporting period 14 April 2016 to 30 September 2016. The Board considered your contention the report was unjust and the comments did not comply with the Performance Evaluation System (PES) Manual. The Board further considered your contentions there was no direct relationship or supervision by the Reporting Senior (RS), no initial or follow-on counseling, no acknowledgment by the RS of your billet accomplishments during the reporting period, and that

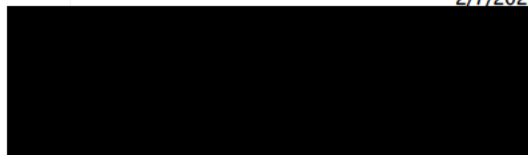
the report was written in a manner to maintain the RS profile. Further, you contend the RS had an “inability to communicate” and was seldom seen by you during your time at the unit. Lastly, the Board considered your contention the RS’s exhibited prejudice toward you, due to your Military Occupational Specialty, is reflected in his section I comments.

The Board noted the PERB modified the contested fitness report by removing the following comment in section I: “In order to continue to advance SNM needs to work on setting the example for the junior Marines in the shop and pursuing further leadership opportunities.” Regarding your request to remove the contested report, the Board substantially concurred with the AO and the PERB Decision that the report, as modified by the PERB, is valid as written and filed, in accordance with the applicable PES Manual guidance. Specifically, the Board determined the PERB modification corrected an error in the contested report and concluded, absent the negative phrase, the balance of the report is valid as written. Further, the Board noted the section I comments regarding your initial relative value and the expected “move up” as the RS profile is rebalanced are permitted by the PES Manual. The Board also determined you did not suggest irregularity or malfeasance with the Reviewing Officer portions of the report which further diminished your argument for report removal. Ultimately, the Board agreed with the AO’s analysis and determination that removing the report in question would constitute an excessive degree of redress and is not supported by the evidence. The Board thus concluded there is insufficient evidence of an error or injustice warranting your requested relief.

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,

2/7/2022

A large black rectangular redaction box covering the signature area.

Executive Director

Signed by:

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