



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

█  
Docket No. 6724-21  
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 3 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 27 September 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 18 May 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 September 2021. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove the fitness report covering the reporting period 16 July 2018 to 7 November 2018. The Board considered your contention the reason for the report's adversity is inaccurate and not a reflection of you as a Marine or person. Specifically, you contend the report was based on a preliminary inquiry which was not done in a fair or legal manner, and the negative, biased comments are the result of the improper investigation. You further contend you were not read your rights, "told how to defend [yourself]," or given an opportunity to defend yourself or share character statements which countered the comments in the fitness report. The Board considered the character statements provided in your submission and your contention the statements directly counter the opinions stated in the contested fitness report.

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 Performance Evaluation System Manual guidance. In this regard, the Board noted you did not provide documentation relative to the preliminary inquiry or documentation indicating your efforts to obtain a copy. Additionally,

the Board considered the contentions raised with respect to notification of the initiation of the preliminary inquiry, your rights, and the lack of opportunity to defend yourself, and concluded these contentions are not legal violations nor are they supported by the evidence in the record or the evidence provided in your submission. The Board further noted the proffered character statements reflect favorably on your approach to your duties but concluded the statements do not discount the additional specific shortfalls referenced in the contested report and fall short of constituting sufficient evidence to invalidate the contested report. The Board 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,

3/7/2022

