



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

█  
Docket No. 456-22  
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 31 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, as well as the Advisory Opinion (AO) provided by the Navy Personnel Command (PERS-32) of 21 January 2022. The AO was provided to you via e-mail on 25 January 2022. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to modify your Evaluation Report & Counseling Record (Eval) for the reporting period 16 November 2016 to 15 November 2017 by removing a statement from Block 43. The Board considered your contention that the following statement should be removed because it is vague, misleading, and unjust: "Block 45. Promotion recommendation is lowered due to not meeting command qualification standards." Specifically, you contend it was not that you were incapable of meeting the requirements but, that you needed extra time to complete them because you were seeking mental health treatment for personal issues. You further contend you were unjustly denied the extra time and your health issues should not have been "held against" you in a negative way.

The Board, however, substantially concurred with the AO. Specifically, the Board noted the Reporting Senior (RS) reflected a decline in one performance trait and reduced the promotion recommendation from "Must Promote" to "Promotable." However, as required by

BUPERSINST 1610.10D, the RS justified the decline in his Block 43 comment that the promotion recommendation was lowered due to you not meeting command qualifications. The Board further concurred that you have presented insufficient evidence to show the RS had “no rational support” for his actions or that he acted “for an illegal or improper purpose.” Noting you did not dispute your delinquency, the Board concluded it was not error or unjust for the RS to reduced your performance trait marking and promotion recommendation due to your failure to earn the qualifications within the designated time. The Board determined there was insufficient evidence of an error or injustice in the Eval and concluded your request did not warrant 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,

4/29/2022

