



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: 1526-22
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.

A three-member panel of the Board, sitting in executive session, considered your application on 30 June 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 the 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 15 February 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB) (the PERB Decision), the 23 November 2021 Advisory Opinion provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30) (the AO), as well as your AO rebuttal of 15 March 2022.

On 2 June 2021, you received two Administrative Remarks Page 11 counseling entries. The first Page 11 was for having allegations of harassment substantiated by a command investigation (CI), in violation of Marine Corps Order (MCO) 5354.1E, the Marine Corps Prohibited Activities and Conduct Policy (PAC). The second Page 11 was for disobeying a direct and lawful order from the Executive Officer Combat Logistics Battalion ■. You subsequently received an adverse fitness report covering the period 28 August 2020 to 2 June 2021 due to being relieved for cause as a result of the substantiated PAC violation.

The Board carefully considered your request to remove the fitness report covering the period 28 August 2020 to 2 June 2021. You contend that the report is invalid as you executed Permanent Change of Assignment (PCA) orders out of the command on 26 May 2021 and your previous command could not extend the report to 2 June 2021. You further argue that the report is erroneous and unjust because the Performance Evaluation System (PES) manual does not allow for derogatory material to be mentioned in a fitness report until after it is adjudicated.

The Board noted that your Commanding Officer (CO) placed you on legal hold, until 2 June 2021, in order to document the findings of the command investigation. The Board further noted, that in your rebuttal to the Page 11 counseling, you state that you received PCA orders on 12 May 2021 and that you were required to report no later than 2 June 2021. The Board concurred with the AO assessment that you engineered an early check-in with your gaining unit, on the eve of the Memorial Day weekend, while your parent command was at sea and without the parent command's knowledge or consent. Finally, the Board noted that the command conducted a legal sufficiency review after the investigation and the Convening Authority endorsed the investigation. As a result, the Board determined that the fitness report did not violate the PES Manual, as the reporting chain accurately documented in Section I the underlying basis of the adversity. Consequently, the Board concluded that there is insufficient evidence to show injustice or error warranting removal of your adverse fitness report. Therefore, given the totality of the circumstances, the Board determined that your request does not merit 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,

7/15/2022

