



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

█  
Docket No: 1803-22

Ref: Signature Date

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Dear █:

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 7 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 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 17 March 2022 advisory opinion (AO) furnished by the Navy Personnel Command (NPC) (PERS-32). The AO was provided to you on 28 April 2022, 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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 remove or modify your fitness report for the reporting period 1 May 2021 to 25 June 2021 by redacting the adverse marks in blocks 34 and 35, and by redacting the reporting senior (RS) comments in block 41. The Board considered your contention that the fitness report violates the Navy Performance Evaluation System Manual (EVALMAN), because the RS's report of misconduct resulted in a Board of Inquiry (BOI) that was held on 1 March 22, thus the RS commented on a show cause proceeding that had not concluded. You also contend that the RS had already closed out his fitness reports, issued an extension for the previous reporting period, and submitted the contested fitness report after he

was no longer your commander or RS. You claim that you were accused of stealing toilet paper rolls from a restroom in the Navy Exchange and for lying to investigators. You also claim that you denied the allegations, demanded your right to a trial, however, the charges were dismissed and you were denied the opportunity to secure an acquittal and restore your reputation.

The Board, however, substantially concurred with the AO that your fitness report is valid. In this regard, the Board that noted that your performance trait grades in block 34 (command or organizational climate) and block 35 (military bearing/character) were marked 1.0. In addition block 36 (teamwork) and block 37 (mission accomplishment) were marked 2.0 and in block 41 your RS commented that, "I have lost confidence in member. Reliable evidence, established to my satisfaction, that member stole rolls of toilet paper from NEX [REDACTED] bathroom on three occasions and then lied about her actions to base police and to a Preliminary Inquiry Investigating Officer." The Board determined that your RS did not violate the EVALMAN by commenting on your misconduct prior to your BOI since the comments regarding your misconduct were established by reliable evidence. The Board agreed with the AO that the EVALMAN does not preclude the use of facts related to misconduct, provided they are determined independently to the RS's satisfaction. The Board also determined that your evidence was insufficient to support your contention that your RS was no longer the valid reporting authority. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

6/23/2022

[REDACTED]

[REDACTED]

Executive Director

Signed by: [REDACTED]