



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. 3138-22
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 16 August 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 18 March 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 10 November 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 18 March 2022. Although you were given 30 days in which to submit a response, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would 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 your Fitness Report (Fitrep) for the reporting period 1 January 2019 to 28 October 2019. The Board further considered your request to remove all your failures of selection (FOS) to the next grade. You contend that section I comments do not match the Cumulative Relative Value (RV) of the Fitrep, the Reporting Senior (RS) graded you by MOS and not by your rank, and RS admitted on the addendum page of the Fitrep that he could not accurately reflect your performance in his profile. Finally, you feel that your knowledge, skills, and drive exceeds the majority of your peers in your military occupational specialty (MOS).

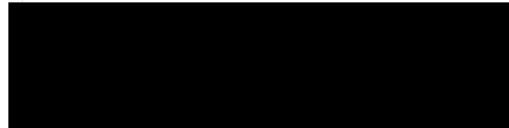
The Board, however, substantially concurred with the AO and the PERB decision that the Fitrep is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted that you did not provide evidence, other than your subjective statement, that the RS' comments were inconsistent with PES Manual guidance, the RS graded you based on your MOS and not your performance, and the RS intentionally skewed the Fitrep to ensure the RV would fall at the bottom of his profile. The Board determined that the RS adhered to PES Manual guidance when providing appropriate attribute markings based on his assessment of your performance at the time and there is no scale to match the RV with RS comments. The Board thus concluded that your request is lacking in sufficient evidence of an error or injustice warranting removal of this Fitrep.

Based on the finding that the Fitrep shall remain in your record, the Board declined to remove your previous FOS from your record. Accordingly, 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,

8/29/2022

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Executive Director

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