



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: 3181-22

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 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 8 April 2022 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 23 March 2022 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-13). The AO was provided to you on 8 April 2022, and you were given 30 days in which to submit a response to the AO. 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 the fitness report for the reporting period 1 January 2018 to 31 December 2018 by removing any statements related to your assignment to the Marine Corps Body Composition Program (BCP), removing any derogatory statements, and removing the adverse rating. The Board considered your contention

that the materials that made the fitness report adverse were removed from your record due to improper record keeping and lack of physical evidence to support the BCP assignment.

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as modified. In this regard, the Board noted that the PERB approved a correction to your record by removing: “and was assigned to BCP” from Section I; “did exactly what he should have to work through BCP and be successful” from Section K.4; and “and sought accountability before being assigned to the Body Composition Program. At the end of the six month assignment” from your Addendum Page rebuttal statement. The Board determined that even after the removal of comments related to your assignment to the BCP, the adverse nature of your fitness report is still valid. The Board also noted that your body fat percentage exceeded the Marine Corps standard for your age group and according to the Marine Corps Performance Evaluation System (PES) Manual, if the body fat percentage reported is greater than the maximum allowed for the Marine’s gender and age, it renders the report adverse. Therefore, the Board determined the fact that your height/weight/body fat exceeded Marine Corps standards, as substantiated by your admission for failing to maintain Marine Corps standards, is sufficient to support the adverse nature of your fitness report. Moreover, the PES Manual does not require you to be formally assigned to the BCP to render a report adverse. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting an amendment or removal of your fitness report. Accordingly, the Board found insufficient evidence of error or injustice to 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,

6/29/2022

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Executive Director

Signed by: █