



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: 3326-22
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 14 July 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. The Board also considered the 8 April 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB) (the PERB Decision) and the 21 January 2022 Advisory Opinion provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30) (the AO). The PERB Decision and the AO were provided to you on 8 April 2022. You were given 30 days in which to submit a response but did not do so.

The Board carefully considered your request to remove the fitness report covering the period 18 March 2021 to 31 July 2021. On 19 July 2021, you received two Administrative Remark Page 11 entries; one for violating Article 92 of the Uniform Code of Military Justice (UCMJ) for failing to take the physical fitness test (PFT) and the second for violation of Article 107 (false official statement) for providing a PFT worksheet signed by a Marine who did not observe you conduct the PFT in an attempt to receive a passing score. You subsequently received an adverse fitness report; Section A, Item 5a is marked 'RDNT' (required did not take) and the reporting senior (RS) stated in section I that you failed to take a PFT and submitted a false [PFT worksheet] during the reporting period.

You argue the report is erroneous and unjust because you were not required to run a PFT during the reporting period as a result of being placed on limited duty (LIMDU) on 12 February 2021.

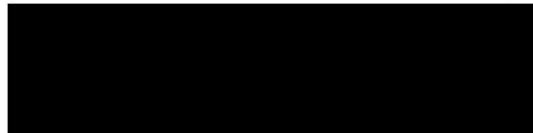
You contend that in accordance with Marine Corps policy, you were authorized to delay taking the PFT until 5 August 2021.

The Board, however, noted that you while you were placed on LIMDU in February, you returned to full duty status on 6 May 2021. Therefore, the Board concurred with the AO that the command had the authority to compel you to take the PFT after 6 June 2021. The Board further noted that you did not appeal the Page 11 entries nor did you provide a rebuttal statement to the fitness report. Finally, the Board noted that you did not provide sufficient evidence to dispute the fact that you entered a false PFT worksheet to satisfy the PFT requirement. Consequently, the Board determined that the Page 11 entries are supported by the preponderance of the evidence and were issued appropriately in accordance with applicable regulations. As a result, the Board found that the fitness report in question is valid as written and insufficient evidence of error or injustice exists to warrant its removal 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,

7/25/2022

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Executive Director

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