



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

█
Docket No. 3329-22
Ref: Signature Date

█
█
█
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 23 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 18 March 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 5 November 2021 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision was provided to you on 18 March 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.

The Board carefully considered your request to remove your 14 April 2019 to 9 November 2019 Fitness Report (Fitrep) as modified by the PERB or, in the alternative, make the report non-observed. The Board considered your contentions that you and the Reporting Senior (RS) did not belong to the same command, you did not have a working relationship, the RS did not conduct an initial counseling, guidance and expectations were never made clear, and the RS wrote favorable Section I comments that did not align with the assigned attribute markings. You further contend that you were on temporary additional duty for 42 days and you were preparing to transfer during the last month of the reporting period, supporting your basis that the RS had insufficient observation during the reporting period.

The Board noted the PERB's action recommending the Fitrep be retained as filed; however, directed the insertion of language in Section I comments that noted your TAD for a period of 42

days. In light of the PERB's action, the Board considered your request to remove the contested Fitrep or make the Fitrep not observed based on your contentions above.

The Board substantially concurred with the AO and the PERB decision and determined that your current record is a matter of fact and sufficient relief was granted accordingly. In this regard, the Board determined the Fitrep is valid as written with the addition of the inserted language. With regards to your contention that the RS failed to conduct an initial counseling and you were not given clear guidance or expectations of your responsibilities, the Board noted that the lack of counseling does not render a Fitrep invalid nor is it required per the Performance Evaluation System (PES) Manual. The Board also determined that the RS adhered to PES Manual guidance when providing appropriate attribute markings based on his assessment of your performance at the time. Moreover, the Board noted that you failed to provide any evidence that your demonstrated performance was not accurately portrayed in the contested Fitrep or that your reporting chain was in violation of the PES Manual. The Board thus concluded that your request is lacking in sufficient evidence of error or injustice warranting removal of the Fitrep from your official military personnel file or modifying the Fitrep by changing it to not observed. 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,

7/16/2022

