



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. 3368-22
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 applications 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 applications, 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 by the Marine Corps Performance Evaluation Review Board (PERB) and the 17 March 2022 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 8 April 2022. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove your 1 January 2017 to 31 December 2017 fitness report. The Board considered your contentions that you never received any documents or counseling for falling out of Marine Corps height and weight standards, and although you started the Body Composition Program (BCP) during the reporting period, you were back within standards in 42 days. The Board also considered your assertions that you have maintained the standards with no further issues, learned from your mistake, and that the effect of an adverse fitness report should not prevent you from progressing as a Staff Non-commissioned Officer to the next rank.


The Board, however, substantially concurred with the AO and the PERB decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System

(PES) Manual guidance. In this regard, the Board noted that you admitted to being outside of Marine Corps standards for height, weight, and body fat during the reporting period, as documented in the fitness report. The Board also noted that the PES Manual does not specifically require a Marine to be formally assigned to the BCP in order to render a fitness report adverse. Furthermore, the Board noted that the perception that a particular fitness report may reduce your competitiveness for promotion, selection, or assignment is irrelevant in determining whether the report is adverse or not. The adversity is in the recorded performance, not in the perceived future competitiveness. Finally, the fact that you remained within acceptable standards subsequent to the transgression does not obviate the fact you were out of standards. While the Board understands and appreciates your desire to move forward from this professional mistake, they ultimately concluded the contested report is valid as written and the circumstances of your case are not uniquely different from those of other Marines who received adverse fitness reports for the same reasons. Therefore, the Board determined there was no error or injustice warranting the removal of the fitness report from your record.

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

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director

Signed by:

A black rectangular redaction box covering the name of the Executive Director.