



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: 3410-22
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 21 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 30 March 2021 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.

The Board carefully considered your request to remove your fitness report for the reporting period 18 June 2016 to 31 December 2016. The Board considered your contention that the Third Officer Sighter referenced a 6105 page 11 entry, dated 13 April 2017 that should not have been referenced within the contested reporting period. You also contend that there was no official height and weight documented in the Marine Corps Total Force System for the reporting period to justify an assignment to the Marine Corps Body Composition Program (BCP). In addition, there is no page 11 entry documenting adverse conduct that would render the report adverse.

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 the Third Officer Sighter statement that, on 13 April 2017, you, received a 6105 counseling concerning unsatisfactory performance while assigned to the BCP. The Board also noted that your fitness report was rendered adverse for exceeding Marine Corps height/weight/body fat standards and for 'Setting the Example'. The Board noted, too, that according to the Marine Corps Performance Evaluation System (PES) Manual, if the Marine's body fat percentage reported is greater than the maximum allowed for the Marine's age group, the report is adverse. The Board determined that the PES Manual does not require an assignment to the BCP or an adverse page 11 entry for a fitness report to be rendered adverse. In making this finding, the Board also considered the fact you did not provide evidence that you were not out of body fat standards during the report period. Therefore, the Board determined that the PERB correction to your record sufficiently address the Third Officer Sighter's error. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the fitness report. 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,

7/6/2022

