



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. 3436-22
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 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 by the Marine Corps Performance Evaluation Review Board (PERB), and the 25 January 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 July 2019 to 3 April 2020 fitness report. The Board considered your contention that your fitness report was used as a counseling tool instead of an evaluation and cites deficiencies without documented counseling.

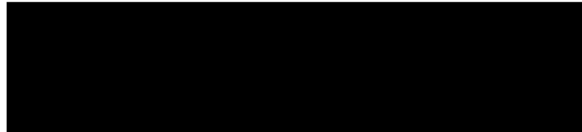
The Board, however, substantially concurred with the AO and the PERB decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted that there is not PES Manual guidance stipulating that all events or circumstances cited in an adverse fitness report be accompanied by documented counseling and determined that your contention that the fitness report was used as a counseling tool is not supported by a preponderance of evidence. Furthermore, the Board noted that although your fitness report does reference noteworthy competence and natural abilities, the overarching tenor of your evaluation reflects a failure of attitude and professional demeanor. Finally, the Board noted that the fitness report does not substantiate or determine guilt, but rather

validates whether or not the fitness report accurately documents that which has been adjudicated. In this case, the contested fitness report included derogatory material consisting of a negative 6105 Page 11 counseling that was sufficiently documented. The Board thus concluded that your request is lacking sufficient evidence of error 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,

7/4/2022



Executive Director

Signed by:

