



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. 3605-22
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 26 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, as well as the 21 December 2021 advisory opinion (AO) provided by the Navy Personnel Command (NPC) (PERS-32) and the 11 January 2022 AO furnished by the NPC (PERS-80) and your response to the AO.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 12 April 2022, this Board previously denied your request to modify fitness reports in your record and grant you a Special Selection Board (SSB). You submitted new evidence not previously considered by the Board and requested reconsideration of the decision.

The Board carefully reconsidered your request to modify your fitness reports for the reporting periods 13 July 2019 to 31 October 2019, 1 November 2019 to 31 October 2020, and 1 November 2020 to 12 March 2021. Specifically, you request an increase to performance trait marks and to amend your block 41 performance comments. You also request a SSB for

promotion consideration to █. The Board considered your contentions that the fitness reports do not accurately reflect your performance during the reporting periods and demonstrate a clear departure from your high-level of performance when compared with your other fitness reports. You also contend that the reporting senior (RS), also the commanding officer (CO), used the report to interfere with your career progression. In addition, you contend that you filed an Inspector General (IG) complaint because your RS created a negative and oppressive environment through his arrogant, hostile, intimidating, demeaning, and abusive behavior. You claim that not long after reporting for duty, you experienced and observed the “negative and oppressive” environment created by your RS. During one exchange, the RS directly threatened to “take action” against you, a comment that you interpreted to be a threat against your upcoming fitness report. You claim that you were never counseled by the RS regarding any deficiencies and the RS disregarded your seniority and rated you below a █.

The Board, however, substantially concurred with the AOs. In this regard, the Board noted that you acknowledged your fitness reports and indicated that you did not intend to submit a statement. The Board did not find your reasoning for not submitting a statement to be compelling based on your fitness report that describes you as an excellent communicator and exceptional leader. In light of those comments and your proposed comments, the Board was not persuaded that you could not submit a statement in response to the fitness reports in question based on the requirements of applicable BUPERSINST. The Board also noted that according to the Navy Performance Evaluation System Manual (EVALMAN), the RS has the discretion to determine the trait grades, career and promotion recommendation assigned on a fitness report. The Board noted, too, that your fitness reports are not adverse, they contain no adverse performance traits or comments and you received the second highest promotion recommendation of ‘Must Promote’. The Board determined that your fitness reports do not reflect any noted deficiencies, therefore, your RS was not required to counsel you on any deficiencies. The Board also determined that each reporting period is unique, thus, previous evaluations by different RSs do not invalidate your contested fitness reports.

Concerning your IG complaint, the Board noted the Command Investigation into allegations of a hostile work environment created by the former CO, Naval Medical Logistics Command. The Board also noted that the Investigating Officer (IO) found that: the complaint that you received a fitness report that misrepresented your performance was unsubstantiated; your fitness reports appear justifiable; the █ had an established promotion recommendation prior to your arrival at the command; allegations regarding the executive officer and CO positions were not substantiated; allegations that the CO displayed hostile and intimidating behavior was not substantiated; and the IO did not substantiate any allegation against the CO. The Board also noted that the IO concluded that the CO’s actions in upholding policies and performance standards were not abusive and were in keeping with the CO’s obligations. In addition, the Commander, Naval Medical Forces █ approved the findings of fact, opinions, and recommendations of the investigation. Based on these factors, the Board determined that your evidence was insufficient to conclude that your performance rated higher marks than you received or that your performance trait marks and RS comments constituted an error or injustice. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have

