

DEPARTMENT OF THE NAVY

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

> Docket No: 3904-22 Ref: Signature Date

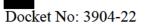


This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found 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 12 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 9 May 2022 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 10 December 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 9 May 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 modify the fitness report for the reporting period 28 October 2016 to 28 February 2017 by increasing attribute marks for sections D, E, F, G, and H. The Board considered your contentions that the reporting senior (RS) based his attribute marks on a limited period of observation and not your known potential or performance as demonstrated by your two previous fitness reports. You also contend that the fitness report indicates a potential negative performance trend that the RS does not believe is accurate. As evidence, you furnished correspondence from your former RS and reviewing officer (RO).

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted that your performance



during the contested reporting period was assessed while assigned to a billet that was different from the previous two reporting periods. The Board also noted the correspondence from your reporting chain and the justification for modifications your attribute marks. The Board determined that each reporting period is unique and attribute marks are based upon your performance during that reporting period, thus, past performance is not a basis for modification your attribute marks. The Board also determined that your request constitutes an untimely profile reset and the substantive changes to your fitness report long after processing would negatively affect other officers in the RS's profile. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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.

