



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

█
Docket No. 3907-22
Ref: Signature Date



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 30 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 9 May 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 29 October 2021 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). You were previously provided a copy of the AO for comment, but chose not to do so.

The Board carefully considered your request to remove the fitness report covering the reporting period 1 January 2021 to 15 April 2021. You contend the report does not contain justification for the factual differences identified by the Third Officer Sighter and erred in its inclusion of remarks identifying the result of the adverse action. Further, you contend the report fails to identify the Reporting Senior's (RS) periods of non-availability.

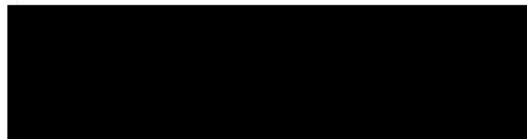
The Board noted the PERB modified the contested fitness report by: 1) Marking Section A, Item 5b with an "X"; 2) Marking Section A, Item 7c with an "X"; 3) Deleting all information in Section C; 4) Deleting Sections D through H, pages 2-4 of the report; 5) Deleting from Section I the comment "This is a CMC directed report triggered by the finding of guilty at non-judicial punishment by the Commanding General █ Marine Division."; 6) Inserting into Section I "This report is not observed due to insufficient observation time."; and 7) Deleting Section K.4 comment

“I do not agree with the RS recommendation for promotion of SNO during this reporting period.” The Board thus substantially concurred with the AO and the PERB Decision that the report, as modified by the PERB, is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted that in cases of adversity documented via a DC occasioned report, the specificity for adversity is actually spelled out in the PES Manual. Therefore, since you received NJP, the report was pre-ordained to reflect adversity, and the underlying basis of report adversity was valid. Based on the available evidence, the Board concluded there is insufficient evidence of an 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,

7/19/2022

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Executive Director

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