



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

██████████
Docket No. 3910-22
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 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 by the Marine Corps Performance Evaluation Review Board (PERB), and the 25 October 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 9 May 2022. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board determined that your personal appearance, with or without counsel, would 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.

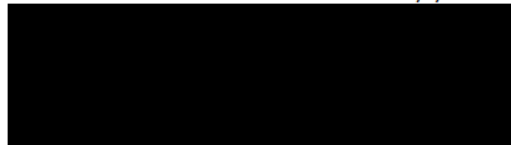
The Board carefully considered your request to remove your 1 May 2021 to 19 July 2021 Fitness Report (Fitrep), or in the alternative, modify by changing it to not observed. The Board considered your contentions that the Reporting Senior (RS) included an ambiguous comment in Section I that could be misinterpreted as a velvet dagger and taken four different ways, the ambiguity in the comment and the random letter "t" displays that the RS did not take an adequate look into the comments before submitting the Fitrep, and the vague comment can be interpreted in a false light and has no justification, supporting documentation, or clarifying comment.

The Board considered your request to remove or modify the contested Fitrep based on your contentions above. The Board noted that the PERB previously modified the Fitrep by removing the random "t" from the Section I comments. Based on the modification made by the PERB, the Board substantially concurred with the AO that your current record is a matter of fact and is valid as written. In making this finding, the Board determined that you failed to provide sufficient evidence that would render the remaining portions of the contested Fitrep invalid. Additionally, the Board determined that RS adhered to PES Manual guidance when providing appropriate Section I comments. Specifically, the Board concluded that the Section I comment is not adverse in nature or derogatory. In fact, the Board determined the comment accurately reflects your performance during the reporting period. The Board felt that despite your belief that the comment is subject to misinterpretation, the comment does not violate PES Manual guidance and, therefore, does not invalidate the contested Fitrep. The Board thus concluded that insufficient evidence of error or injustice exists with the Fitrep. 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,

8/2/2022

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Deputy Director

Signed by: 