



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

██████████  
Docket No. 3920-22  
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.

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 application 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 by the Marine Corps Performance Evaluation Review Board (PERB), and the 14 February 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 carefully considered your request to remove your 1 June 2015 to 31 May 2016 Fitness Report (Fitrep) and the 1 June 2016 to 19 June 2016 extended Fitrep. The Board considered your contentions that the reporting chain was improperly modified, the Reporting Senior failed to counsel you, and the subsequent Inspector General investigation results served as evidence of RS reprisal against you for participation in the investigation and allegations against the RS.

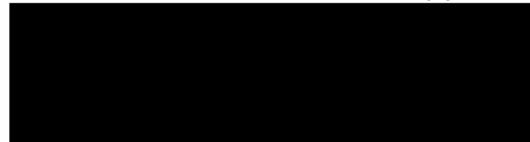
The Board, however, substantially concurred with the AO and the PERB decision that, in accordance with the Performance Evaluation System (PES) Manual, the two Fitreps are procedurally correct as written and filed. In this regard, the Board determined that the lack of counseling does not render a Fitrep invalid nor is it required per the PES Manual. Additionally, the Board found no evidence that the RS improperly modified the reporting chain. Finally, the

Board also determined that the RS adhered to PES Manual guidance when providing appropriate attribute markings based on his assessment of your performance at the time. In making these findings, the Board determined that you failed to provide any evidence that your demonstrated performance was not accurately portrayed in the contested Fitreps. Furthermore, the Board concluded that you failed to provide any supporting evidence, beyond your subjective statement, that the RS acted maliciously against you for your role in the investigation. The Board thus concluded that insufficient evidence of error or injustice exists with regard to the two Fitreps. 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



Deputy Director

Signed by:

