



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: 3929-22

Ref: Signature Date

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Dear █:

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 5 January 2022 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 remove the fitness report for the reporting period 16 September 2018 to 26 November 2018. The Board considered your contentions that the reporting period began while you were deployed, and largely covered the period of your unit's redeployment and your administrative checkout period from the command. You also contend that the reporting period was less than 90 days, there was insufficient observation to justify an observed report, you did not have meaningful personal contact with the reporting chain, and the reporting chain marks do not accurately reflect your performance during the reporting period.

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

approved a correction to your record by changing the reporting senior (RS) portion of the fitness report to be not observed. The Board also noted that the reporting period was less than the minimum required for an observed fitness report and the RS failed to invoke the exception to policy. The Board determined that the RS portion of the fitness report was in error and did not comply with the Marine Corps Performance Evaluation System Manual. The Board also determined that the PERB corrections to your record sufficiently addressed your contested error and concurred with the PERB that the reviewing officer portion of the fitness report is valid. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting further 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.

Sincerely,

7/21/2022

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Deputy Director

Signed by: █