



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

██████████
Docket No. 4197-22
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 19 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 16 May 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 1 April 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 16 May 2022, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

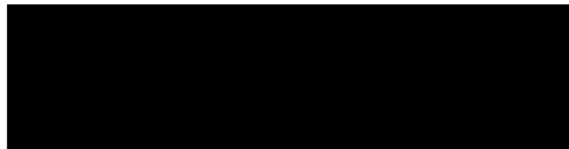
The Board carefully considered your request to remove your 1 June 2014 to 15 August 2014 Fitness Report (Fitrep). The Board considered your contentions that the Fitrep reflects a temporary duty assignment (TAD) less than 89 days, it appears adverse guised in faint praise with no significant or fairly assessed information, you were not subject to any form of adverse or disciplinary action, the Reporting Senior's (RS) comments reflect vague, ambiguous language which influenced the Reviewing Officer's (RO) comments, RO had no meaningful personal contact yet provided markings and comments that remain benign and general and damned the report. The Board further considered your assertions that the report discriminates against previous and subsequent reports that resulted in direct impediment of career retention and promotion opportunities, and removal will provide a fair opportunity for a full personnel record review during the Fiscal Year 2024 Colonel Selection Board.

The Board, however, substantially concurred with the AO and the PERB decision that, in accordance with the Performance Evaluation System (PES) Manual, the Fitrep was procedurally correct as written and filed. In this regard, the Board determined that both the RS and RO adhered to PES Manual guidance when providing appropriate attribute markings and comments, based on their assessment of your performance and potential for continued professional development, respectively. Moreover, you failed to provide any evidence that your demonstrated performance was not accurately portrayed in the contested Fitrep or to support any of your contentions above, other than your subjective statement. Furthermore, the Board noted that you have been promoted since the issuance of this Fitrep, contrary to your contention that this contested Fitrep is a direct impediment of promotion opportunities. The Board thus concluded that your request is lacking in sufficient evidence of error or injustice warranting removal of the Fitrep from your official military personnel file.

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,

8/5/2022

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Deputy Director

Signed by: 