



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

█  
Docket No. 4217-22  
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 5 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 16 May 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 7 March 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 was mailed 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 modify your 16 September 2016 to 31 May 2017 Fitness Report. The Board considered your contention that your fitness report contains an administrative error since the Reviewing Officer (RO) lacked sufficient observation time to assign observed markings. The Board also considered your assertion that it will diminish follow on career opportunities.

The Board, however, substantially concurred with the AO and the PERB Decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted that you omitted any evidence to support your contention regarding the RO observation time or alleged periods of non-availability. The Board also noted that periods of non-availability only pertain to the Reporting

Senior (RS) observation. Further, the Board noted that a formal period of non-availability must constitute 30 combined consecutive days. Furthermore, the Board noted that performance and conduct are what directly influences a Marines promotability and how a future promotion selection board may interpret the report or how it may affect future career opportunities is immaterial to the question of whether it is a valid report. Finally, the Board noted that while your RO expressed good intentions to remove his evaluation, his endorsement does not identify an error or injustice with the actual contents of his original evaluation nor does it provide compelling evidence that the RO's original assessment was impeded by insufficient observation. The Board thus concluded that there is insufficient evidence of error or injustice with this 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,

7/22/2022



Executive Director

Signed by:

