



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. 4408-22
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 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 25 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 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 2 May 2007 to 30 June 2007 fitness report. The Board considered your contentions that your fitness report did not meet the minimum observation time of 90 days, that the Reviewing Officer (RO) was not co-located with you, and that the Reporting Senior (RS) or RO did not provide any justification for how their observations resulted from meaningful personal contact.

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 attempted to apply updated PES Manual guidance regarding RS observation criteria and exception to policy that was not in existence when the report in question was processed in 2007. As explained in the AO, the

guidance in effect at the time of contested report processing omitted any amplification of definitive meaningful and/or close personal contact. Further, the Board noted that the RS indicated that an exception to policy was being invoked in the Section I Directed Comments of the contested report and this was in compliance with the existing guidance. The Board further noted that the RO was not constrained by minimum observation requirements pertinent to the RS nor was the RO required to be co-located with you. Finally, the Board noted that you omitted any endorsement from the reporting officials and have since been promoted twice since the report was issued. 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,

7/23/2022

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Executive Director

Signed by:

A black rectangular redaction box covering the name of the Executive Director.