



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: 4981-22
Ref: Signature Date



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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 4 October 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 29 June 2022 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 24 May 2022 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The AO was provided to you on 29 June 2022, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to remove your fitness report for the reporting period 2 July 2016 to 24 October 2016. The Board considered your contentions that the fitness report was used to revoke your selection to Master Sergeant (MSgt/E-8). You claim that your reporting senior (RS) admitted that the reviewing officer (RO) influenced/pressured him to make the fitness report adverse. You also claim that the failed Logistics Readiness Evaluation (LRE) was the result of the unit changes that allowed line companies to have their own equipment, making it hard for you to effectively control the day-to-day operations. You expressed your concerns to the RO and were told that it was a risk the Battalion Commander was willing to take. As evidence, you provided correspondence from your reporting officials.

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted that your fitness report was rendered adverse for several reasons. Specifically, you were relieved for cause by the Battalion Commander, you were issued a 6105 page 11 entry that is referenced as Derogatory Material and remains in your official record, the attribute for Performance was marked adverse, you were not recommended for promotion, and your RO marked the Comparative Assessment as Unsatisfactory. The Board also noted that the Third Officer Sighter adjudicated the factual differences and provided a comprehensive explanation to support his conclusion that your fitness report and reporting chain assessments are valid. The Board also consider the correspondence from your reporting chain, but found it to be unconvincing. The Board further noted that at processing, your reporting officials provided definitive justification to support the adverse nature of your fitness report. The Board determined your reporting officials failed to provide sufficient justification regarding the information that was "not known" to them when the report was processed during 2016. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the fitness 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,

10/12/2022

