



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: 4985-22
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 8 September 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. The Board also considered the 29 June 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 5 May 2022 Advisory Opinion (AO) provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The PERB decision and AO were provided to you on 29 June 2022. Although you were given 30 days in which to submit a response, you chose not to do so.

The Board carefully considered your request to remove the fitness report covering the period 1 January 2017 to 27 October 2017 or remove the first sentence of the reporting senior's (RS) comments. You contend that the fitness report is invalid because the RS comments violated the Performance Evaluation System (PES) Manual by identifying minor limitations, shortcomings, occasional lapses or weakness in an overall positive performance.

Based on its review, the Board noted that the referenced RS comments in the fitness report were not negative or adverse. Further, the Board concurred with the AO that your allegation that the comments violated the PES Manual lacked specificity or sufficient explanation. Finally, the Board also noted that you did not argue that there was any error regarding the reviewing officer portion of the report; therefore diminishing your argument for removal of the report.

Consequently, the Board determined that the contested report contains no material error or injustice to warrant its removal or modification. 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,

9/14/2022

