



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. 4986-22
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 6 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, as well as the 29 June 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 30 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 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 3 June 2018 to 31 December 2018 Fitness Report. The Board considered your contentions that the report contained negative comments with velvet dagger throughout the report. The Board also considered your contention regarding the white space left in Section I and K of the report.

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. Regarding your contentions about the verbiage utilized by the reporting senior (RS) and reviewing officer (RO), the Board noted that the RS and RO comments were not negative or adverse. In reviewing the comments, the Board concluded that while the RS and RO

comments were not laudatory, the fact you were described as meeting basic standards or minimum expectations does not make the comments adverse. As pointed out in the AO, the Board found no negative criticisms that otherwise qualified their comments that you were meeting the standard of performance. Further, the Board noted that there is no PES manual requirement for a reporting official to fill all available space within the Section I or K portion of the report. The Board thus concluded that there is insufficient evidence of error or injustice to support removing the fitness report in question. 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,

10/4/2022

