



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

██████████  
Docket No. 5397-22  
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 16 July 2022 decision 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 and Performance Branch (MMRP-30). The PERB decision was provided to you on 16 July 2022. Although you were provided an opportunity to comment on the AO, you chose not to do so.

The Board carefully considered your request to modify your Fitness Report (Fitrep) for the reporting period 8 August 2017 to 2 January 2018 by changing the Fitrep from “observed” to “not observed” and the Reviewing Officer’s section from “sufficient” to “insufficient.” The Board considered your contention that the Fitrep is contrary to Performance Evaluation System (PES) Manual guidance in that unobserved Fitreps should be submitted for company grade officers who have not yet completed their primary Military Occupational School (MOS). The Board noted that you were issued the Fitrep in the process of a lateral move to the Intelligence field and while awaiting Air Intelligence Officer Course. You claim you were an untrained MOS 0201 Intelligence Officer and therefore, not eligible for an observed report.

The Board, however, substantially concurred with the AO and PERB decision that the Fitrep was administratively and procedurally correct as written and filed, in accordance with applicable PES Manual guidance. In making this finding, the Board noted that you were not performing any intelligence related duties or functions during the reporting period and were serving as the S-3 Training Officer. As a result, the Board determined that the fitness report in question did not violate the PES guidance since you were not evaluated as an untrained intelligence officer performing intelligence related duties. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting modification of 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

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Executive Director

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