



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. 5407-22
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 23 August 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 10 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 were provided to you on 16 July 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 modify your fitness report for the reporting period 30 November 2010 to 1 May 2011 by changing the reporting senior (RS) portion to be not observed. If relief is granted, you request to remove your failures of selection. The Board considered your contention that your fitness report contains disparaging markings that are not in line with the Section I comments, and cast unclear meaning and ambiguities that misled you to believe the report was laudatory.

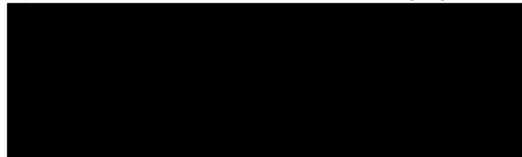
The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted that your contention is based upon Marine Corps Performance Evaluation System (PES) Manual guidance that was not

in effect when your fitness report was processed. Further, the Board determined that your Section I comments are favorable, but not laudatory in nature. The Board also noted that the PES Manual does not provide a scale to match attribute marks with the Section I comments, and you provided no evidence that your performance and conduct rated higher marks than you received. The Board also determined that a low relative value does not constitute grounds to modify your fitness report. Based upon the foregoing determination, the Board found no basis for the removal of your failures of selection. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting modification 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,

9/20/2022

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