



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

█
Docket No. 5704-22
Ref: Signature Date

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Dear █:

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.

A three-member panel of the Board, sitting in executive session, considered your application on 13 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 previous 27 August 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 9 July 2021 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 27 August 2021 as part of your previous application to this Board. Although you were provided an opportunity to comment on the AO, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You were previously denied relief by this Board on 27 January 2022. You presented as new evidence, a sequence of events that occurred during the processing of your Fitness Report (Fitrep) and an assertion that your RS was pressured to change his markings, which was not presented during previous Board consideration. In light of this, the Board carefully considered your request to modify your Fitrep for the reporting period 27 August 2018 to 31 May 2019 by changing the RS portion to "not observed." The Board considered your contention that the Reporting Senior (RS) stated during a phone call that he was pressured to change his evaluation

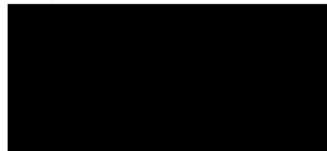
by the Reviewing Officer and therefore, changed his marking philosophy which violated the Performance Evaluation System (PES) Manual guidance. You claim, however, that the RS was not comfortable attesting to this in a written statement.

The Board, however, substantially concurred with the previous AO that, as indicated in previous Board decision, the Fitrep was procedurally correct as written and filed in accordance with applicable PES Manual guidance. The Board carefully considered the new evidence you submitted; however, found that the evidence was insufficient to support your contention. Without evidence to substantiate your assertion, the Board could not determine the precise facts surrounding the circumstances of the RS's evaluation of your performance. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting modification of the Fitrep. 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,

10/5/2022

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Executive Director

Signed by:

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