



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

█  
Docket No. 5838-22  
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 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 1 August 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 17 May 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 1 August 2022. Although you were provided the opportunity to comment on the AO, you chose not to do so.

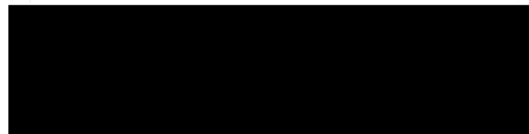
The Board carefully considered your request to remove your Fitness Reports (Fitrep) for the reporting periods 1 November 2010 to 30 April 2011 and 1 May 2011 to 11 June 2011. The Board considered your contention that Reviewing Officer's (RO) should be consistent with their RO profile and, when they are assessing a Marine in back-to-back reporting periods whose performance remained constant, the Marine should receive at least the same attribute marks as assigned in the preceding Fitrep. The Board further considered your contention that your preceding Fitrep was observed by the same Reporting Senior (RS) and RO; however, your duty assignment changed from "platoon commander" to "officer-in-charge" and, while the RS's marks increased, the RO's comparative assessment mark decreased with no justification provided.

The Board, however, substantially concurred with the AO and the PERB decision that the Fitrep was administratively and procedurally correct as written and filed, in accordance with the applicable PES Manual. In this regard, the Board determined that the RO adhered to PES Manual guidance when providing the appropriate comparative assessment marking based on his assessment of your professional abilities and potential in comparison to other Marines of the same grade at report processing. Although the RO decreased the marking from your preceding Fitrep, the RO complied with PES Manual guidance and was not required to provide justification for doing so. As pointed out in the AO, the RO can feasibly determine that your performance did not remain constant, as compared to other Marines, even if the RS determined otherwise. Furthermore, you failed to provide any evidence, beyond your own statement based on the RS' markings, that there is a material error or injustice with the RO's portion of the Fitrep and that you warranted a higher comparative assessment marking. Finally, the Board noted that you were promoted twice subsequent to issuance of the fitness reports in question. The Board thus concluded that your request is lacking in substantial evidence of probable material error, substantive inaccuracy, or injustice warranting removal of the Fitreps from your official military personnel file. 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,

10/6/2022

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Executive Director

Signed by:

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