



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

██████████
Docket No: 5850-22
Ref: Signature Date

██████████
██████████
██████████

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 29 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) (the PERB Decision), and the 23 June 2022 Advisory Opinion provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30)(the AO). The PERB Decision and the AO were provided to you on 1 August 2022. 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.

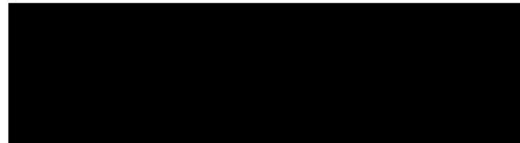
The Board carefully considered your request to remove the fitness report covering the period 29 June 2019 to 30 June 2020. You argue that the report is invalid because the report inaccurately recorded your performance and potential, was inconsistent with your long record of high performance, and erroneously indicated a significant deterioration in your performance that did not occur. Moreover, you argue the low relative value was inconsistent with the report's comments and the reviewing officer (RO) did not have significant observation of you during the reporting period, resulting in an unjust assessment.

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. The Board noted that the RO comparative assessment marking was in the '5' block, which is not considered adverse or substandard. The Board further noted that non-availability consists of thirty combined consecutive days where the Marine Reported-On (MRO) or reporting senior (RS) was not available for duty and the petition did not contain any evidence of non-availability for you or the RS. The Board concurred with the AO that the Performance Evaluation System (PES) Manual does not require the RO to be co-located with the MRO in order for observation to occur. Finally, the Board agreed with the AO assessment that your contentions are primarily subjective matters of judgement and you have not demonstrated an error or injustice that warrants removal 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,

11/1/2022

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Executive Director

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