



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

██████████  
Docket No. 5863-22  
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.

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 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 10 March 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, and you were given 30 days in which to submit a response.

The Board carefully considered your request to change the fitness report covering the period 14 April 2012 to 31 May 2012 to not-observed. If granted, you further requested to remove all failures of selection from your record. You argue that the report is erroneous because the reporting period was only 48 days and you were not involved in any exercises or operations that would have allowed an opportunity for sufficient observation.

The Board noted that in accordance with the policy at the time, Reporting Seniors (RS) could submit an observed report for periods of 89 days or less if the basis of the observation resulted from meaningful personal contact with the Marine Reported-On (MRO) and that the information was significant and provided a fair assessment of the MRO. The Board further noted that the RS of the contested fitness report did invoke an exception to policy regarding minimum observation

time by stating in Section I, "RS has had meaningful personal contact with the MRO." The Board concurred with the AO that the Performance Evaluation System (PES) Manual, MCO 1610.7F, did not require the RS to state the circumstances which would justify the exception to policy for writing an observed report. Moreover, the Board concurred there was no evidence to show that the report's assessment was unfair or insignificant. Consequently, the Board determined that the fitness report is administratively correct and shall remain in your official military personnel file as written.

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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Deputy Director

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