



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

█  
Docket No. 6116-22  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 24 January 2023. 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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 for consideration for promotion by the Fiscal Year (FY) 2003, FY 2004, and FY 2005 Navy Commander Line Reserve Special Selection Board (SSB). The Board considered your contention that the fitness report responsible for your failures of select was removed from your record. You argue that you do not understand how the previous Board denied the SSB based upon a lack of proof of an injustice. The Board contradicts itself by removing the fitness report, but later claiming that there is a lack of evidence "to establish the existence of probable material error or injustice." You assert that a previous Board concluded that the adverse fitness report was to be removed from your record as a result of an injustice. You claim that you were made aware of the serious mistake regarding your adverse fitness during 2008 by a former civilian co-worker employed at the command where the adverse fitness

report was created. You also claim that the command administration department seriously erred with other service members' fitness reports as well.

The Board noted the 18 January 2018, Board decision letter, in which the Board recommended a correction to your record by removing your fitness report for the reporting period 4 January 1999 to 14 October 1999. The Board also noted that the Assistant General Counsel (AGC) for the Secretary of the Navy review the Board's recommendation and concurred with the advisory opinion furnished by the Navy Personnel Command (PERS-32). Specifically, that your fitness report be retained and that block 14 be changed to 1 July 1999 instead of 4 January 1999. The Board noted, too, that according to the 4 January 2023 PERS-32 email your fitness report was initially removed, however, PERS-32 corrected the error, and modified your fitness report pursuant to the AGC's decision. The email also indicates that PERS-32 notified you of the correction on 23 July 2018. The Board determined that the basis for your request lacks merit, your contested fitness report was not removed, the report was not adverse, and contained no adverse marks or comments and the content of fitness report was not changed.

The Board substantially concurred with the previous Board's decision that your request does not meet the requirements to convene an SSB. The Board determined that the error in block 14 of your fitness report did not constitute a material error. Based on the fore going, the correction to your record would not have changed a promotion board's perception of your performance or conduct. In addition, the Board found your evidence insufficient to conclude that the contested fitness caused or contributed to your failures of selection. Accordingly, the Board concluded that is insufficient evidence of a probable material error, substantive inaccuracy, or injustice warranting consideration by an SSB.

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,

2/8/2023

