



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

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Docket No. 7284-23
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 17 October 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, as well as the 14 July 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 13 June 2023 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 14 July 2023. Although you were given an opportunity to submit a rebuttal, 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 your Fitness Report (Fitrep) for the reporting period 1 January 2021 to 22 July 2021 and replace it with an administrative filler. The Board considered your contention that the reporting senior (RS) did not explain in Section I what fully adjudicated punitive process you were subject to and what, if any, punitive measures were taken against you. You also contend that Section K, Item 3 of the Fitrep does not describe what derogatory administrative material you received. You further contend there is no mark of unsatisfactory for the comparative assessment, the RS and RO comments do not include any

negative words, phrases, or qualifying adverbs, and you did not receive any punitive material during the reporting period.

The Board, however, substantially concurred with the AO and the PERB decision that the Fitrep is administratively and procedurally correct as written and filed, in accordance with the Performance Evaluation System (PES) Manual. In this regard, the Board determined that the RS adhered to PES Manual guidance when issuing you the directed adverse Fitrep due to your relief from duty. The Board further determined the RS provided you the appropriate attribute markings and Section I comments based on the adverse nature of the Fitrep and his relevant assessment of your performance at the time, all which was concurred with by the Reviewing Officer.

The Board acknowledged that you were not subject to any disciplinary action or derogatory material and, in accordance with the PES Manual guidance, absent this, by default, your relief constituted performance-based adversity. Accordingly, “the RS must provide factual basis for the assessment in the justification block of the appropriate attribute and state in section I that the MRO was relieved for cause.” The Board noted that the RS complied with this requirement, thus making the challenged Fitrep valid. Similarly, when you rebutted the adverse nature of the Fitrep at report processing, the Third Officer Sighter adjudicated the factual differences, to which you raised the same contentions, and it was determined that the Fitrep was administratively and procedurally correct. The Board thus concluded that your request is lacking in sufficient evidence of probable material error, substantive inaccuracy or injustice warranting removal from your official military personnel file.

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,

11/7/2023

