



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. 7959-22
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 22 November 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.

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 to remove your fitness report for the reporting period 1 June 2013 to 31 May 2014. The Board considered your contention that the reporting senior (RS) and reviewing officer (RO) used their authority to act in an unjust manner. You cited a Center of Naval Analysis study stating that "RSs and ROs do not always act in a way that is strictly consistent with the original intent to of the PES Manual". You also cited issues with the fitness report training that officers receive at The Basic School, and you provided a statistical analysis of your performance record. You also contend that the RO's word picture is not consistent between fitness reports. The fitness report ending 31 May 2013 contains the comment "continue to groom for command," while the contested fitness report states, "continue to groom this hard charging officer with most demanding of assignment." You assert that the later comments could be interpreted to show a drop in performance. Further, you assert that the RS's

assessments vary from your other RS's and the RS used the fitness report system to retaliate against you for his own personal interest. For the Board's consideration, you also provided a statement that included accusations regarding a Supply Officer's purported misconduct, a Marine Corps Times Article, and Marine Corps Press Release detailing actions taken against two officers for an Amphibious Assault Vehicle mishap that occurred during July 2020, and varied interactions with your RS.

The Board, however, substantially concurred with the previous Board's decision that your fitness report is valid and should be retained as filed. In this regard, the Board noted that the contested fitness report ended after a period of 23 months of observation by the same reporting officials. The Board also noted that the attribute marks and comparative assessment by the reporting officials were consistent, and there are no adverse comments. In consideration of the totality of the evidence, the Board determined that your reporting officials prepared and processed your fitness according to the Marine Corps Performance Evaluation System Manual. The Board also determined that each reporting official's profile is unique based upon the Marines of the same grade they have evaluated and thus should not be compared to previous fitness reports. The Board further determined that a personality conflict between the Marine and RS is not a basis to remove a fitness report.

You also indicate in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 U.S.C. § 1034. Based upon the fore going, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

12/8/2022

