



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

█  
Docket No. 8057-22  
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.

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 20 December 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 21 October 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 23 August 2022 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 21 October 2022. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to modify your 2 October 2010 to 5 January 2011 Fitness Report by changing the Reviewing Officer (RO) portion of the fitness report to "Not Observed." The Board considered your contention that your RO did not comply with the Performance Evaluation System (PES) Manual. You argue that the conditions for "meaningful assessment" were not met and the fitness report only covered a 96 day period, of which you were assigned temporary additional duty until 30 November 2010, and also that your RO did not assume command until 24 November 2010. The Board also considered your contention that you had no prior relationship with the RO.

The Board, however, substantially concurred with the AO and the PERB decision that the fitness report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted that the PERB modified the fitness report on 15 July 2022 and changed the Reporting Senior portion of the fitness report to "Not Observed." Further, the Board noted that the RO was not constrained by PES Manual guidance applicable to the RS regarding minimum observation requirements and the Board determined that the RO's knowledge and observation during the abbreviated period of performance was sufficient. The Board thus concluded that the PERB's decision was satisfactory and that your request is lacking in sufficient evidence of error or injustice of this fitness report established in 2011.

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,

1/5/2023

A large black rectangular redaction box covering the signature of the Deputy Director.

Deputy Director

A black rectangular redaction box covering the contact information of the Deputy Director.