



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. 8087-22
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 12 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 17 May 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 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 2 September 2019 to 27 January 2020 Fitness Report. The Board considered your contention that your chain of command failed to properly modify the reporting chain after the relief of the original Reporting Senior (RS). The Board also considered your contention that it took the reporting officials over eight months to complete the fitness report.

The Board, however, substantially concurred with the AO and the PERB decision that the fitness report, as modified by the PERB, is valid, in accordance with the applicable Performance

Evaluation System (PES) Manual guidance. The Board agreed with your contention that the RS did not have sufficient observation time to process an observed fitness report, and noted that the PERB modified your fitness report making the RS portion of the fitness report “not observed.” Regarding your contention that it took more than eight months to process the fitness report, the Board noted that per the PES Manual, although late submission is unacceptable, it does not render a fitness report invalid. Finally, the Board noted your contention that the reviewing officer (RO) failed to properly modify the reporting chain, but you did not provide any evidence to demonstrate how that would invalidate the fitness report. Therefore, the Board determined that the RO portion of the evaluation remains valid. The Board thus concluded that the PERB’s decision was sufficient and that your request is lacking in sufficient evidence of material error or injustice warranting the removal of the contested fitness report.

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

