



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. 412-23
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 4 April 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 20 January 2023 Advisory Opinion (AO) provided by the Navy Personnel Command (PERS-32) and your response to the AO.

You previously applied to this Board to remove the Fitness Report (Fitrep) for the reporting period 1 November 2021 to 4 April 2022 and were denied on 25 October 2022.

The Board carefully reconsidered your request to remove your Fitness Report (Fitrep) for the reporting period 1 November 2021 to 4 April 2022. You presented as new evidence, a statement outlining the events during the reporting period and a statement provided by your reporting senior (RS) confirming that he was authorized to sign as your RS despite his relief from command. The Board considered your contentions that in accordance with BUPERSINST 1610.10E, you have reason to believe the Fitrep is invalid as the RS/commanding officer (CO) was relieved of command and, due to his relief, the immediate superior in command (ISIC) must assume the RS responsibility. You referenced the previous AO, provided by PERS-32 dated 26 September 2022 as part of your previous application (Docket No. NR20220006754), that stated, "if the CO was summarily relieved of command, the Fitrep is invalid and should be removed." Additionally, the previous AO states that, "in review of RS's official military personnel file (OMPF) and Fitreps on file, there is no documentation of being relieved of command or assumption of RS authority by the ISIC, nor did PERS-32 receive notification from

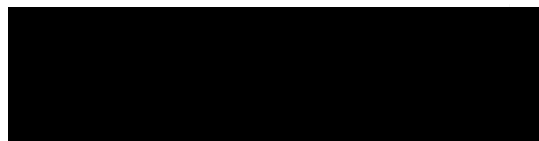
the command or ISIC.” You state that you are not in the capacity or ability to ensure PERS-32 was/is properly notified of the RS being relieved of command. You further contend that email correspondence in your initial application conveys your engagement with PERS-32 and attempts to remedy this situation at the lowest level with members of your command that were in a position to properly notify PER-32, but to no avail.

The Board, however, substantially concurred with the most recent AO that the Fitrep was procedurally correct as written and filed. The Board carefully considered the new evidence you submitted and found no evidence that your RS’s relief was related to his ability to continue duties as the RS. Furthermore, in the RS’s own statement, he confirms that he requested and received guidance from his ISIC, PERS-32, and command staff judge advocate that he was authorized to process Fitreps through 4 April 2022. The Board thus determined that your RS acted in accordance with BUPERINST 1610.10E guidance in issuing you the contested Fitrep. The Board thus concluded that your request is lacking in substantial evidence of material error, substantive inaccuracy, or injustice warranting removal of the Fitrep from your OMPF. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

4/20/2023

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Executive Director

Signed by:

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