

DEPARTMENT OF THE NAVY

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

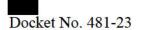
> Docket No. 481-23 Ref: Signature Date

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 21 February 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 3 January 2023 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 2 November 2022 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The AO was provided to you on 3 January 2023, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to remove your fitness report for the reporting period 1 January 2020 to 31 July 2020. The Board considered your contentions that the range movement on 6 July 2020 was conducted 49 days after your arrival in and, during 14 of those days, you were under COVID restrictions. You also contend that the event fell short of the six week guidance for acclimatization provided by the Marine Corps Installations and Cold Stress Injury Prevention Program. You claim that the movement occurred under black flag conditions, 12 Marines fell out of the movement, and you were the only one relieved or that received any form of administrative action, although it was your first time falling out of a range movement. You also claim that you did not receive any verbal or written counseling about the event until you were pulled into the Company Commanders office and told you were being relieved. In addition, there are no negative



counselings indicating that this is a pattern. As evidence, you provided a PowerPoint slide related to the training event.

The Board, however, substantially concurred with the PERB's decision and the AO. In this regard, the Board noted that the period of performance covered seven months where you served as Platoon Sergeant. The Board also noted that your period of observation as Platoon Sergeant in began and the contested movement occurred until The Board determined that your contention regard the period of acclimatization lacks merit. Based upon the period of observation seven months was a sufficient amount time for acclimatization and there is no evidence that the unit violated the regulation. The Board noted, too, that you admitted to struggling in the past, in regards to heat conditions, you thought that you were adequately prepared for this movement, you agreed with the outcome, and you took full responsibility for your actions and shortcoming. The Board also determined that your relief for cause was ultimately formed the basis for your adverse fitness report. As a result, the Board found your evidence was insufficient to warrant removal of your fitness report and concluded that there is no probable material error, substantive inaccuracy, or injustice warranting additional corrective action. 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.

