



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

██████████  
Docket No. 6829-23  
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.

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 October 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 21 July 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 17 May 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30), and your response to the AO.

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 modify your fitness report for the reporting period 1 October 2017 to 30 June 2018 by making it not observed. You also request to remove your failure of selection (FOS). The Board considered your contention that during your career counseling in January of 2023, it was discovered that your fitness report had several administrative errors. Specifically, you should have received four not observed fitness reports during the reporting period. As evidence, you provided correspondence from your former Reporting Senior (RS) for consideration.

The Board, however, substantially concurred with the AO and PERB decision that in accordance with applicable Performance Evaluation System (PES) Manual guidance, the fitness report is administratively and procedurally correct as written and filed. In this regard, the Board noted that your purported absences did constitute periods of non-availability. However, the Board determined that the RS still had more than 90 days of observation to evaluate and provide an assessment of your performance and conduct. The Board also noted the correspondence provided by your former RS and determined that the correspondence was unpersuasive. The Board also determined that you failed to provide sufficient evidence that the RS erred when issuing you an observed fitness report. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding your request to remove your failure of selection, the Board found no evidence that the contested fitness report caused you to fail selection for promotion. As such, the Board concluded that your request does not warrant 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,

11/14/2023

