



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. 6857-23
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 12 September 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 furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 12 June 2023 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The AO was provided to you on 21 July 2023 and although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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 the fitness report for the reporting period 1 June 2021 to 17 May 2022. The Board considered your contention that evaluations in the fitness report were wrongfully influenced by a Prohibited Activities and Conduct (PAC) violation investigation that was unsubstantiated. During February 2022, you were informed that you were the subject of a command investigation for a PAC complaint. Several days later you were told to stay home until further notice, and you were later directed to report to the █ Marine Expeditionary Force (MEF), █ until completion of the investigation. On 26 April 2022, you

were notified that the investigation was complete and the PAC accusation was unsubstantiated. The same day, you received Permanent Change of Assignment orders to the [REDACTED] for duty. When your fitness report populated, you noticed that the Reviewing Officer (RO) was changed and your Reporting Senior (RS) relative value decreased from the previous fitness report in the same billet.

The Board, however, substantially concurred with the AO and PERB's decision that your fitness report is valid as written and filed, in accordance with the applicable Marine Corps Performance Evaluation System (PES) Manual. In this regard, the Board noted that the fitness report is not adverse and does not include any comments related to the purported PAC investigation. The Board determined that although the PAC Investigation was unsubstantiated, the PES Manual does not prohibit your reporting officials from considering evidence from the PAC investigation in their evaluation of your performance and conduct during the reporting period. As a result, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the fitness report in question. 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,

10/2/2023

[REDACTED]