



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

█
Docket No. 7129-23
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.

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 case on its merits. 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 14 July 2023 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 28 March 2023 advisory opinion (AO) provided to the PERB by the █. The AO was provided to you on 14 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 2 August 2019 to 20 January 2020. The Board considered your statement that you were in a permissive temporary additional duty (PTAD) status during the reporting period, due to personal hardship. You contend that the Marine Corps Performance Evaluation System (PES) Manual does not specifically address fitness reports while in a PTAD status for humanitarian reason.

You claim that the PES Manual suggested that significant observation time is needed for a fair and adequate assessment of one's performance. You also claim that the assigned unit had no billet and/or billet vacancy for you to fill as mandated when given a humanitarian transfer.

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 PES Manual. In this regard, the PES Manual required an observed fitness report for the six month PTAD period. The Board noted that you were assigned to a billet and to duties aligned to your military occupational specialty. The Board also noted that your billet accomplishments and Section I comments appear consistent with your assigned duties and well informed regarding your performance during reporting period. The Board noted, too, that your fitness report omits any periods of non-availability. The Board found no evidence that your reporting officials did not sufficient observation to evaluate your performance and conduct. 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,

10/3/2023

