



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



Docket No. 7285-23
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 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 14 July 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 24 April 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the AO were provided to you on 14 July 2023, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove your fitness report for the reporting period 1 October 2021 to 23 October 2022, the 23 July 2022 Administrative Remarks (Page 11) 6105 counseling entry, and associated rebuttal. The Board considered your contentions that you were treated unjustly by your Commanding Officer (CO) for requesting mast, your career has been severely affected by this action, and the command knew this was your last year before being considered for promotion to staff sergeant and reaching service limitations.

Concerning your request to remove your 23 July 2023 counseling entry, the Board previously adjudicated your request (Docket No. 1350-23) and it was denied. The Board found no new evidence for consideration, therefore, the Board's decision is limited to the removal of your fitness report.

The Board, however substantially concurred with the AO and the PERB decision that, in accordance with the Performance Evaluation System (PES) Manual, the fitness report is procedurally correct as written and filed. In this regard, the Board noted that your fitness report was marked adverse for receiving Derogatory Material and 'Decision Making Responsibility'. The Board also noted that the Reporting Senior (RS) justified the adverse nature of the fitness report, you acknowledged the adverse nature of the fitness report, and the report was adjudicated by the Third Officer Sighter who confirmed that your actions were supported by verifiable facts. The Board determined that your RS provided sufficient justification and prepared the fitness report according to the PES Manual. The Board found no evidence that your fitness report was submit to prevent your promotion to SSgt and/or retention and you provided none. 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.

You also indicate in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude that your fitness report was submitted as reprisal in violation of 10 U.S.C Section 1034. In making this determination, the Board found no evidence of a complaint and there was no evidence, other than your statement, that your fitness report was issued as a reprisal action.

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

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Deputy Director

Signed by: 