



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

█
Docket No. 7320-23
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 17 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 14 July 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 19 May 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Performance Branch (MMRP-30). 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.

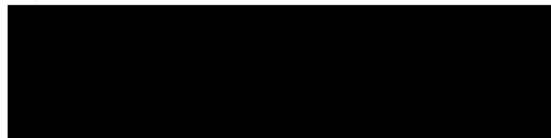
The Board carefully considered your request to remove the fitness report for the reporting period 5 October 2020 to 18 November 2020. The Board considered your contention that your failed physical fitness test (PFT) was due to an injury that led to a hamstring tear. The Board also considered your contention that there is no associated Page 11 counseling entry in your official record. The Board also considered your claim that removal of the fitness report will increase opportunity for promotion consideration.

The Board, however, substantially concurred with the AO and the PERB decision that your fitness report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted you received the fitness report while a student at the Staff Noncommissioned Officers Academy for failing to pass a scheduled PFT. The Board also noted pursuant to the PES Manual all PFTs taken as part of formal school will be appropriately recorded in Item 8b and that a failure of any PFT will render the fitness report adverse. In regards to your contention that you did not receive a counseling entry, the Board noted there is no PES Manual requirement for the reporting chain to process a counseling entry as a precursor for rendering a fitness report adverse. Regarding your contention you failed the PFT due to an injury that lead to a hamstring tear, the Board noted the date of the hamstring injury occurred subsequent to the end of the reporting period and after the failed PFT, which took place on 16 November 2020. Finally, regarding your claim that removal of the fitness report will increase promotion opportunities, the Board determined this is conjecture the Board cannot validate. Thus, 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,

11/1/2023

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Executive Director

Signed by: 