



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

█  
Docket No. 236-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your request for reconsideration of the previous decisions of the Board for Correction of Naval Records [hereinafter referred to as the Board] in Docket No. 5889-20 and Docket No. 5452-21. After careful review and consideration of all of the evidence of record, to include the new materials provided that were not previously considered, the Board continued to find insufficient evidence of any material error or injustice warranting relief. Accordingly, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 16 January 2024. 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.

The Board carefully considered your request to remove the fitness report for the reporting period 1 January 2019 to 11 September 2019. The Board considered your contention that the fitness report was not accurate to the actual situation as evidenced by the letter of recommendation you received from your Reporting Senior (RS) during that time period. The fitness report stated you were negligible the entire grading period, yet the letter states that is not the case. You claim that the adverse fitness report cost you promotions and opportunities to contribute to the Marine Corps and you have shown time and time again that you are ready for the responsibility and leadership requirements of being a Gunnery Sergeant of Marines. You claim that you were diagnosed with Post Traumatic Stress Disorder (PTSD) during 2010 and a Traumatic Brain Injury (TBI) during 2021, while “they do not prevent you from performing any required duties, they are there.” You assert that the main issues are with the inconsistencies between your Marine Report on Worksheet (MROW), fitness report, and letter of recommendation.

The Board, however, substantially concurred with the previous PERB and Board decisions 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 determined that the basis for adversity was sufficiently documented by your reporting officials, and properly adjudicated by

the Third Officer Sighter. The Board found no evidence of correspondence from your RS advocating for the removal of your fitness report or rescinding the adverse nature of the fitness report. The Board also determined that your reporting officials were best situated to determine the extent of your performance-based adversity and the necessity for your removal as Staff Non-commissioned Officer-in-Charge. Concerning your PTSD and TBI, the Board found no evidence of your purported diagnosis and determine there is no nexus between your diagnosis and the adverse nature of your 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.

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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

1/26/2024

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