



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

██████████
Docket No. 334-24
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.

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 applications on 27 February 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies, as well as the 12 January 2024 Advisory Opinion (AO) provided by Navy Personnel Command (PERS-32). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to remove your Fitness Report & Counseling Record (fitness report) for the reporting period 1 February 2019 to 31 January 2020. The Board also considered your request to remove your fitness report for the reporting period 1 February 2020 to 3 April 2020. The Board considered your contention that you are a three time failure of selection for lieutenant command and the improper handling of the aforementioned fitness reports resulted in your failure to select. The Board also considered your contention that you were not afforded the opportunity to sign your fitness report ending on 31 January 2020 nor was a copy provided to you by the Reporting Senior (RS). The Board also considered your contention that, while the filing of the aforementioned fitness report may have been the result of an administrative error and not out of reprimand, it has caused a cascading effect on your career as well as your ability to promote.

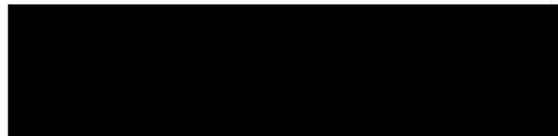
The Board, however, substantially concurred with the AO that the fitness reports are valid as written and filed, in accordance with the applicable Navy Performance Evaluation System (PES) guidance. In this regard, the Board noted that the RS accurately prepared and submitted the fitness reports in accordance with BUPERSINT 1610.10E (EVALMAN). Further, the Board noted the evaluation of a member's performance is the responsibility of the RS who determines the trait grades, as well as career and promotion recommendations. In your case, the fitness reports are not adverse and contain no adverse comments, performance traits, or promotion recommendations. Finally, the Board determined you provided insufficient evidence to establish the existence of improper mishandling of the fitness reports.

Concerning your claim that the fitness reports have resulted in your failure to select, the Board noted whether or not the contested reports have hindered your promotability and career advancement is conjecture that the Board simply cannot validate. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the fitness reports in question from your record. 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,

3/12/2024

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Executive Director

Signed by:

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