



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

Docket No: 2763-18

Ref: Signature Date

Dear [REDACTED]

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 26 February 2019. 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, the enclosed and previously provided 28 March 2018 advisory opinion (AO) furnished by the Performance Evaluation Review Board (PERB), and applicable statutes, regulations, and policies. The AO was provided to you on 28 March 2018, and you were given 30 days in which to submit a response. When you did not provide a response, your case was submitted to the Board for consideration.

The Board carefully considered your request to remove the fitness reports for the reporting periods 1 January 2013 to 10 March 2013 and 11 March 2013 to 29 April 2013, or modify them by making them not observed. The Board considered your contentions that the reports are less than the minimum observation time of 90 days, and that both Reporting Seniors (RS) failed to follow the Performance Evaluation System (PES) manual and by not justifying why this exception to policy was invoked in Section I or Section K.

The Board noted that in accordance with the PES manual "for periods of 89 days or less, RSs may submit an observed report if, in their judgement, they possess sufficient observation and (a) the basis of the observation result from meaningful personal contact with the Marine Reported On (MRO); and, (b) the information provided is significant and provides a fair assessment of the MRO." The Board also noted that the RS for the 1 January 2013 to 10 March 2013 reporting period is the same RS from a previous not observed reporting period. Accordingly, the Board

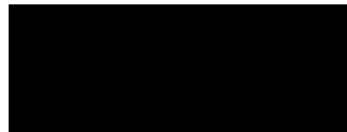
determined that his observation of you was not limited to the dates of the reporting period. The Board substantially agreed with the AO and determined that the extensive Section I comments by both RSs demonstrates that they had meaningful contact with you, and provided a fair assessment.

Regarding your contention that both RSs failed to include the exception to policy statement in their comments, the Board concurred with the AO and determined that the exclusion of the exception-to-policy-statement was an honest act of omission, and does not invalidate either report. Under the totality of the circumstances, the Board in its review discerned no probable material error or injustice in the fitness reports. Therefore, it is the Board's conclusion that the contested reports should remain unmodified in your record.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new matters. 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,

6/10/2019

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Executive Director

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