



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

█
Docket No. 7022-24
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.

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 application on 20 August 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 9 July 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 determined that your personal appearance, with or without counsel, would 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 your fitness report for the reporting period 14 September 2019 to 31 May 2020. The Board considered your claim that the fitness report has three performance traits marked 2.0 and, pursuant with BUPERSINST 1610.10F, a fitness report with two or more traits marked 2.0 is considered adverse. You further contend there is no justification or explanation of adverse performance in block 41, which is in direct violation of the instruction.

The Board, however, substantially concurred with the AO that the Fitness Report is valid as written and filed, in accordance with the applicable Navy Performance Evaluation System (PES)

guidance. In this regard, the AO noted a report is considered adverse if it has more than two traits graded as 2.0 or contains comments indicating serious weakness, incapacity, or lack of qualifications. In your case, you received two 2.0 performance trait grades and the fitness report contained no adverse comments in block 41. Thus, the Board concluded the fitness report is not adverse and 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 sexual assault/harassment. The Board, however, noted that you provided no information regarding your claim and concluded insufficient evidence exists that you were the victim of sexual assault/harassment.

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, _____

9/11/2024

