



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

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Docket No. 10147-24
Ref: Signature Date

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Dear █,

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 12 November 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, as well as the 18 October 2024 advisory opinion (AO) furnished by the Navy Personnel Command (NPC) (PERS-32) and your response to the AO.

The Board carefully considered your request to remove the fitness report for the reporting period 1 November 2016 to 30 June 2017. The Board considered your statement that the Reporting Senior (RS) conducted a formal investigation into allegations that you falsified documents and verbal statements. You contend that you were found innocent of all charges, a Captain was very upset with the investigation results and used his influence upon the RS to make sure you would receive a less than stellar fitness report and de-mobilized you before your detach date. You also contend the RS placed false adverse comments in your fitness report, misaligned your promotion recommendation, and hindered your ability to promote. You claim that you previously received an "Early Promote" report describing you as an exemplary officer, strongly recommending you for promotion. You also claim that you were marked above the RS's cumulative average, which contradicts everything written in the contested report, and in violation of Navy instruction, the report is not included in the RS' cumulative average.

In response to the AO, you contend the block 41 statement is false, you were in █, █, █ as the Forward Detachment Officer-in-Charge when the alleged accusation ensued, and no in-person or phone discussion on this matter occurred with the RS or any person in your

chain of command. You contend the RS lowered grades on five performance traits with either no comments or false comments, which does not justify the decline. You argued that the RS authored false comments creating an invalid and unjust fitness report.

The Board, however, substantially concurred with the AO and determined that your evaluation report is valid as written and filed in accordance with the applicable Navy Performance Evaluation System Manual (EVALMAN). In this regard, the Board noted that the EVALMAN allows the RS to provide specific comments when they are a significant part of the member's duties or displays particularly strong or weak performance. In this case, the RS commented that you displayed a lack of transparency in a face-to-face interaction with his Deputy Director, a Navy O-6. He discussed with you the absolute necessity of "forthrightness" in all interactions with leadership. The Board found no evidence of an investigation or the outcome. Other than your statement, the Board found no evidence that the RS's statement is false or inaccurate. The Board also determined that each reporting period is separate and distinct; therefore, your previous report has no bearing on the contested fitness report period. In this case, the RS acted within his discretionary authority by issuing the adverse fitness report. Moreover, the block 41 comments were sufficient to justify the declining performance trait marks. The Board relies on a presumption of regularity to support the official actions of public officers, in the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. 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.

Sincerely,

11/23/2024

