



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

█  
Docket No. 10356-24  
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 26 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 11 September 2024 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), 23 July 2024 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch. The AO was provided to you on 11 September 2024, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove the fitness report for the reporting period 10 July 2015 to 13 January 2016. The Board considered your contention that the fitness report was written with incorrect information and procedures. You claim that you were unable to attend the rifle range because you were on command restriction while under investigation, which "led to no findings as a result of court martial." If there were findings, they should have been listed on a fitness report. You also contend that adverse report procedures were improper according to dates of accountability.

The Board, however, substantially concurred with the PERB's decision that you did not meet the burden of proof nor shown by preponderance of evidence a substantive inaccuracy or injustice warranting removal of your fitness report. The Board determined 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 noted that you received an adverse fitness report for failure to complete the required annual rifle requalification. Your fitness report was marked adverse for Courage, Leading Subordinates, and Setting the Example and you were not recommended for promotion. The Board also noted that your reporting chain provided the required justification for adversity. The Third Officer Sighter (3OS) properly adjudicated the factual differences. Specifically, the 3OS noted that you did not attend any of the annual rifle requalification ranges during FY 2015, which ended during the reporting period. You were responsible for ensuring all enlisted Marines within your section completed their annual training, as such you would have knowledge of or been able to get the dates for all annual range details. The 3OS determined that living in the barracks or being required to sign in every two hours *after* duty hours does not disqualify a Marine from being assigned to and qualifying on the rifle range. The Board concurred with the 3OS and thus determined that your “command restriction” status did not hinder you from completing the annual rifle requalification. Moreover, the Board found no evidence of your command restriction, a command investigation, or court martial results and you provided none. The Board further determined that your Reporting Senior and Reviewing Officer comments and justification for the adverse marks were not in error or a violation of the PES Manual. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report. 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,

12/11/2024

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Deputy Director

Signed by: █