



**DEPARTMENT OF THE NAVY**

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 2886-25

Ref: Signature Date

[REDACTED]

[REDACTED]

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.

Because your application was submitted with new contentions not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session on 3 December 2025. The names and votes of the panel members 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 the 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 12 March 2025 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB) and the 7 February 2025 advisory opinion (AO) provided to the PERB by the Manpower Management Performance Branch (MMPB-23). Although you were afforded an opportunity to submit a rebuttal to the AO, 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.

You previously applied to this Board to remove the fitness report for the period of 16 November 2020 to 24 June 2021, the 24 June 2021 Administrative Remarks 6105 counseling, and the associated rebuttal statement. Your request was denied on 8 August 2023. The Board determined you presented insufficient evidence to overcome the presumption of regularity regarding the 6105 counseling. Your request to remove the fitness report was not considered since you had not exhausted your administrative remedies by applying to the PERB.

The Board carefully reconsidered your request to remove from your record: (1) the fitness report for the period of 16 November 2020 to 24 June 2021, and (2) the Page 11 counseling record dated 24 June 2021 and associated rebuttal statement. You contend that the entries in question were not completed in accordance with regulations and the policy you were held accountable for was not in effect at the time of your alleged misconduct.

Regarding the fitness report, the Board concurred with the PERB's decision that you did not meet the burden of proof nor show by preponderance of evidence probable material error, substantive inaccuracy, or injustice, warranting removal of the fitness report. Specifically, the Board found that your petition lacks substantial merit. The Board notes that the factual basis for the adverse nature of the fitness report in question is the issuance of the Page 11 counseling, the adverse attribute marking in "Judgement," the comparative assessment of "unsatisfactory," and the Reviewing Officer's and the Third Officer Sighter's non recommendations for promotion.

Regarding your claim of delayed processing of the fitness report, while a late submission is unacceptable, the governing policy, Marine Corps Order 1610.7A, clearly states that late submission does not render a fitness report invalid. Additionally, the statement provided by the Master Gunnery Sergeant, although favorable to you, is not relevant to the fitness report, as he was not part of your official reporting chain. Similarly, your assertion that the investigation was nonexistent is also not relevant, as you were given the opportunity to review a redacted copy of the investigation.

Regarding the fitness report, the Board considered that the Marine Corps Performance Evaluation System and fitness reports are designed to record the outcomes of adjudicated matters rather than determine guilt. The PERB's role is to ensure that relief for cause is properly documented, that you were given the opportunity to provide a rebuttal, and that the reporting chain addressed any factual discrepancies. A disagreement between you and your command regarding what policy was in effect at the time of an occurrence does not constitute factual discrepancy. Your fitness report was determined to be administratively correct and procedurally complete. Furthermore, you were afforded the opportunity to rebut the fitness report's adverse content and you exercised this right. Ultimately, even if the counseling were removed from your record, the fitness report remains adverse due to issuance of the counseling, the negative promotion recommendations, and the fact you were relieved for cause.

However, the Board found no basis to remove the counseling report and the associated rebuttal statement from your record. In making this finding, the Board concurred with the rationale provided in its previous decision. Specifically, the Board found that the counseling was written and issued in accordance with the MARCOPSEPMAN and your commanding officer relied upon sufficient evidence and acted within his or her authority in deciding your counseling entry was warranted. The Board determined the presumption of regularity applies with respect to the counseling entry and, in the absence of substantial evidence to the contrary, concluded it remains valid. Thus, the Board 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,

12/17/2025

