



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204



Docket No. 4508-25

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.

A three-member panel of the Board, sitting in executive session, considered your application on 21 January 2026. 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 22 April 2025 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), the 2 April 2025 advisory opinion (AO) provided to the PERB by the Manpower Management Performance Branch (MMPB-23), and your response to the AO.

The Board determined that a personal appearance with or without counsel would not materially add to their understanding of the issues involved. Therefore, a personal appearance was not necessary, and the Board considered your case based on the evidence of record.

The Board carefully considered your request to remove your fitness report for the reporting period 1 May 2024 to 31 October 2024. The Board considered your contentions that the fitness report contains unexplained decreased grades and remarks. You argue that you did not receive formal counseling or derogatory material to justify the decreased marks and received much higher marks from the same Reporting Senior (RS) and Reviewing Officer (RO) in the previous reporting period. You also contend that Section I contains "velvet daggers;" potentially in retaliation for advice you offered to the RS that was not well-received. Finally, you claim that the RO indicated that different standards apply to officers, suggesting that lower marks could be assigned without negative documentation, and stated he would consider your contemplation of retirement when writing the evaluation.

The Board, however, substantially concurred with the PERB's decision that you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of

your fitness reports. 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. While the Board noted the decrease in your attribute marks compared to your previous fitness report, it affirmed that each reporting period is separate and distinct and the PES Manual does not prohibit an RS from decreasing marks on a subsequent report. Furthermore, because your fitness report is not adverse, the PES Manual does not require derogatory material or formal counseling. The Board reviewed the Section I comments and found them to be favorable, with no evidence of "velvet daggers." The Board thus concluded 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 reprisal. The Board, however, determined that there was insufficient evidence to conclude that your fitness report was submitted as reprisal in violation of 10 U.S.C Section 1034. In making this determination, the Board noted that you provided no evidence, other than your statement, to support your claim that your fitness report was issued as a reprisal action. 10 U.S.C. Section 1034 provides the right to request Secretary of War review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoW policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a *de novo* review and under 10 U.S.C. Section 1034(c) the Secretary of War cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of War for Personnel and Readiness (USW(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR; therefore, please also include previously presented documentation that supports your statements.

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, _____

2/4/2026

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Executive Director

Signed by: █