



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 4590-25
Ref: Signature Date

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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 18 February 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 23 April 2025 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB) and the 3 March 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 your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove the fitness report covering the period of 2 August 2021 to 20 January 2022 from your Official Military Personnel File (OMPF). You contend that Prohibited Activities and Conduct (PAC) command investigation (CI) underpinning the fitness report in question resulted from reprisal against you for having reported the misconduct of other Marines.

The Board, however, concurred with the PERB's decision that you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report. Specifically, the Board concurred with the AO that your reporting chain acted appropriately by considering the PAC CI when evaluating your performance, as the CI was completed prior to the report's processing. The Board additionally noted the factual basis for the fitness report's adverse content is supported by an Administrative Remarks 6105 counseling entry, dated 20 January, that documented your violation of Articles 90 and 92 of the Uniform Code of Military

Justice (UCMJ), your non-recommendation for promotion, and your comparative assessment of “unsatisfactory.” Regarding the counseling entry, the Board noted you previously petitioned the Board for removal of this entry from your record but that request was denied by the Board on 4 February 2025. In reviewing your rebuttal statement to the counseling entry, the Board noted you accepted responsibility for your action. While the Board carefully considered your explanation of circumstances leading to your rebuttal statement, they were not persuaded that your admission of responsibility was not based on your full understanding of the facts in your case. Lastly, you also indicate in your application that you are the victim of reprisal. The Board, however, determined there was insufficient evidence to conclude your fitness report was submitted as reprisal in violation of 10 U.S.C. § 1034. In making this determination, the Board noted that there was no evidence, other than your statement, that your fitness report was issued as a reprisal action. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting the removal of the fitness report. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

Finally, 10 USC § 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 USC § 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,

3/5/2026

