



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

Docket No. 5964-25
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 22 April 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 May 2025 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), the 22 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 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 1 November 2021 to 24 February 2022, and any related record of disciplinary action, from your Official Military Personnel File (OMPF), along with your contentions that this negative fitness report resulted from you being removed from the position of Platoon Commander based on a flawed command investigation (CI). Specifically, you contend that the Investigating Officer (IO) re-wrote statements and summaries of interviews while preparing the CI report, failed to have the summaries reviewed or certified, refused to include a written statement that identified your conduct as proper and in accordance with rules and regulations, and was biased because he was of your same rank, from your same unit, and lacked impartiality, as required by the Manual of the Judge Advocate General (JAGMAN).

The Board, however, substantially concurred with the AO in finding that you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report. As the AO explained, the PES, and fitness reports, serve to document adjudicated findings, such as those of the CI in your case, not to independently investigate or determine guilt. Although you dispute the CI findings, you have not presented evidence of material error or substantive inaccuracy in the resulting fitness report. Your fitness report is adverse not only due to the adverse mark issued in the category of judgment, but because the Reviewing Officer (RO) marked you as “unsatisfactory” in his comparative assessment (CA). Specifically, the RO documented that you were negligent and derelict in your duties as a Platoon Commander and Range Officer in Charge, which resulted in a loss of trust, faith, and confidence. These comments, alone, support an adverse fitness report. Regarding your rebuttal to the AO, although you contend a violation of the JAGMAN, you provide no evidence, apart from your own statement, that higher level concurrence was not secured prior to appointment of the IO. In such circumstances, the Board relies on a presumption of regularity to support the official actions of public officers, and in the absence of substantial evidence to the contrary, the Board will presume they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. Regarding your argument that the AO failed to address exclusion of exculpatory evidence from the CI, as the AO explained, the role of the PERB is not to substantiate or determine the validity of a CI, but to validate that the resulting fitness report correctly documents the CI findings. For these reasons, the Board concluded your fitness report is valid and your request should be denied.

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,

5/5/2026

Executive Director

Signed by: