



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

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Docket No: 3783-22
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 26 July 2022. 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 27 May 2022 advisory opinion (AO) provided by the Navy Personnel Command (NPC) (PERS-32), and your response to the AO.

The Board carefully considered your request to remove your evaluation report and counseling record (Eval) for the reporting period 25 August 2020 to 15 November 2020, and to replace it with a not-observed Eval that includes the block 43 statement, “. . . was awarded Sailor of the Quarter for the Fourth Quarter of FY20 with Department of Energy Naval Reactors Material Office for his superior performance while on ADSW orders.” The Board also considered your request for a fiscal year (FY) 2022 Reserve Limited Duty Officer (LDO) Special Selection Board (SSB), and FY 2022 and FY 2023 reserve Chief Petty Officer (CPO/E-7) enlisted SSB. The Board considered your contentions that the correction to your record was directed by the Commander, Submarine Force, U.S. Pacific Fleet on 28 September 2021. You claim that no action has been taken to correct your Eval and all administrative routes for reprieve have been exhausted.

The Board noted that on 29 May 2021, you filed a Complaint of Wrong under Article 138, Uniform Code of Military Justice (UCMJ). In response to your complaint, the Commander, Submarine Force, U.S. Pacific Fleet requested that the Bureau of Personnel Office replace your observed evaluation report with a not observed evaluation and include that you were awarded

Sailor of the Quarter for the Fourth Quarter of FY20 with Department of Energy Naval Reactors Material Office for your superior performance while on Active Duty Special Work (ADSW) orders.

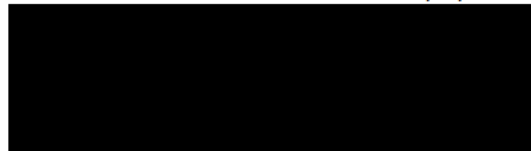
Based upon the Commander, Submarine Force, U.S. Pacific Fleet decision and the recommendation in the PERS-32 AO, the Board concurred that your fitness report should be corrected and granted relief by permitting PERS-32 to remove the contested Eval and to replace it with a memorandum for the record that includes the statement regarding your selection as Sailor of the Quarter for the Fourth Quarter. However, during the processing of your case, the Board was advised by the NPC Legal Counsel that your request was approved and your record is in the process of being corrected. Based on the foregoing, there is no further action for the Board to take regarding your fitness report.

Concerning your request for a FY 2022 and FY 2023 Reserve CPO enlisted SSB, the Board determined that you have not exhausted your administrative remedies. The Board was created by Congress in 1946 to provide a method for correction of errors in the records of current and former Navy and Marine Corps members to avoid the need for private legislation. The statutory authority for the Board is codified in 10 U.S.C. § 1552. Under that authority, the Board may only correct service records based on errors or injustices and may do so only after other avenues of administrative relief have been exhausted. Accordingly, you must submit your request to the NPC (PERS-803) via your Commanding Officer in accordance with BUPERSINST 1430.16G. You may e-mail your request to NPC Enlisted SSB.fct@navy.mil or mail it to: Navy Personnel Command (PERS-803), 5720 Integrity Drive Millington, TN 38055-8010. Likewise, the Board noted you did not incur a failure of selection by the FY 2022 Reserve LDO In Service Procurement Selection Board, and determine you may apply to the next available Reserve LDO selection board.

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,

8/31/2022



Deputy Director

Signed by: 