



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

█
Docket No. 796-21
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 4 November 2021. 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 14 January 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 5 November 2020 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the AO were provided to you on 14 January 2021, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not 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 your fitness report for the reporting period 5 October 2018 to 10 December 2018. The Board considered your contentions the Reviewing Officer (RO) made several unsuccessful attempts, which included this contested report, to discipline you using administrative measures. Further, you contend the RO initially used the fitness report to recommend you resign which highlighted his direct disdain for you vice a holistic look at your records and achievements. You further contend the RO's comments concerning retention violated the Performance Evaluation System (PES) Manual because the

“show cause” determination was still in progress. Additionally, you contend the RO did not have sufficient observation time.

The Board, however, substantially concurred with the AO and the PERB Decision that the report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted the RO’s comments were all based on the circumstances surrounding your five violations of the Uniform Code of Military Justice, actions that were clearly known to the RO and did not require close or meaningful observation. Further, the Board noted your petition lacks evidence to substantiate your contention the RO’s evaluation was tainted by bias or an attempt to discipline you using administrative measures. The Board thus concluded your request is lacking in substantial evidence of error or injustice.

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, _____

11/6/2021

A large black rectangular redaction box covering the signature area.

Deputy Director

Signed by: _____