



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

Docket No. 1860-21  
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 7 October 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 9 March 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 14 December 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 21 March 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 1 June 2019 to 24 January 2020. The Board considered your contentions the fitness report was based on conjecture, contained falsehoods, and referenced false statements from third parties. The Board further considered your contentions you were held accountable for a plan that was approved by higher headquarters, falsely accused of failing to coordinate with adjacent commands, and cited for violating landing approach restrictions even though you were not in command of the aircraft nor did you approve or condone the actions of the pilot. Additionally, the Board considered your contention you were held accountable for the unilateral actions of the

pilot that was outside your command but the commander of the Marine pilot was not held accountable.

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 there was insufficient evidence to warrant removal of the fitness report. The Board specifically noted your petition did not include sufficient evidence to invalidate the command documentation or overcome the compelling adjudication of the adverse report by the Third Officer Sighter. The Board concluded your statement and evidence did not overcome the reporting officials' view that you, as an active participant in the back seat of the plane, were the responsible commander. 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,

10/25/2021

Executive Director