

DEPARTMENT OF THE NAVY

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

> Docket No. 1871-21 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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. 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 16 March 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 9 November 2020 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30), and your 2 April 2021 rebuttal response.

The Board carefully considered your request to modify your fitness report for the reporting period 2 November 2016 to 8 August 2017 by correcting the Reviewing Officer (RO) markings from a "4" to a "5" in accordance with the RO's endorsement dated 7 October 2020. The Board considered your contentions there were "miscommunications" between your leaders which affected observations of your performance and were not fully presented to the Reporting Senior (RS) and the RO during the reporting period. You contend the information was made available to the RS and RO after the reporting period. In support of your request, the retired RO positively endorsed your request.

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 endorsement justification for the substantive correction was

limited to the benign statement "the aforementioned modification aligns accurately within my RO profile" and concluded the justification was insufficient to establish an error or injustice in the report warranting correction.

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.

