



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

■  
Docket No: 3928-22  
Ref: Signature Date

Dear ■:

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 8 September 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 9 May 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB) (the PERB Decision), and the 22 October 2021 Advisory Opinion provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30)(the AO). The PERB Decision and the AO were provided to you on 9 May 2022. Although you were given 30 days in which to submit a response, you chose not to do so.

You received an adverse fitness report covering the period 17 October 2020 to 22 December 2020; you received an 'A' marking for blocks D.1 Performance, D.2 Proficiency, and G.2 Decision Making Ability. Your Reporting Senior (RS) noted that you were the subject of a Criminal Investigation Division (CID) Investigation regarding mismanagement of the squadron funds, that there were numerous tasks that you failed to complete in a timely, complete, and accurate manner, and that your inability to manage your time or successfully execute administrative functions diminished the squadron's operational effectiveness.

The Board carefully considered your request to remove the adverse fitness report. You contend that the report is erroneous and unjust because the reviewing officials failed to adequately adjudicate factual differences in the report, the report was incorrectly marked adverse as you did not receive any derogatory material or disciplinary action, and that the evaluation was

improperly used as a disciplinary tool. You further argue that the CID Investigation found that no funds were used improperly, and that the report grossly exaggerated your performance issues.

The Board, however, substantially concurred with the AO and the PERB decision that the Fitrep is valid as written and filed, in accordance with the applicable PES Manual guidance. While the Board agreed that the CID investigation did not find that you misused funds, the Board noted that the investigation identified numerous problematic accounting errors committed by you. As a result, the Board determined appropriately documented your performance issues in the fitness report. In its review, the Board did not find evidence that supports your contention that your performance issues were grossly exaggerated. Rather, as pointed out by the AO, the investigation findings documented multiple accounting issues related to your performance that, in the Board's opinion, more than justified the adversity of the fitness report without even considering the fact you were relieved of your duties. Further, the Board noted that the PES Manual does not require any documentation or citation of derogatory material or disciplinary action in order to make a fitness report adverse. Based on these factors, the Board agreed with the AO that the reporting chain properly documented the adversity in the report and that the reporting officials properly adjudicated your claimed factual differences. Consequently, the Board determined that there is insufficient evidence of error or injustice to remove the fitness report from your official military personnel file. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

9/15/2022

