



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



Docket No. 4091-22  
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 12 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 9 May 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 6 December 2021 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the AO was mailed to you on 9 May 2022, 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 carefully considered your request to remove your 15 February 2020 to 23 March 2020 Fitness Report. The Board considered your contentions that you were not provided any counseling prior to the report, that the report was used as a counseling tool, and that the relief for cause resulted from a lack of leadership from your Reporting Senior (RS) and Reviewing Officer (RO).

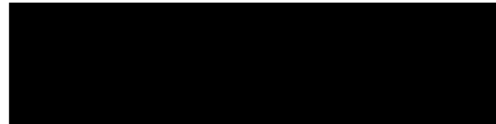
The Board, however, substantially concurred with the AO and the PERB Decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted that formal counsel is not required by the PES Manual in conjunction with processing an adverse fitness report. The Board also noted

that you omitted any evidence to show how the alleged lack of counsel prevented you from performing the assigned duties after, at the point of relief, you had served as the Squadron Avionics Officer for 26 months. Further, the Board noted that the duties to which you were assigned were of routine nature and the RS appropriately captured the reasons why you were relieved of your duties in the Section I Directed comments. Further, the Board considered the RO comments regarding your unsatisfactory performance and found his explanation to be thorough and reasonable. The Board thus concluded that there is insufficient evidence of error or injustice with the report in question. 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,

7/21/2022

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Executive Director

Signed by:

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