



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

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Docket No. 4202-22  
Ref: Signature Date

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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 23 August 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 16 May 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 21 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 were provided to you on 16 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 chose not to do so.

The Board carefully considered your request to remove your Fitness Report (Fitrep) for the reporting period 1 June 2018 to 22 April 2019. The Board considered your contention that the Fitrep is based on an inaccurate and prejudicial command investigation. Specifically, a Commandant of the Marine Corps (CMC) directed Consolidated Disposition Authority (CDA) final report dtd 18 June 2020 found that the original 2018 command investigation's opinions and recommendations were erroneously focused or factually incorrect and allowed for a false narrative. Additionally, you argue that the reviewing officer (RO) made his judgment on an investigation that was not impartial in its focus, thorough in its scope or accurate in its findings, and led to his relief for cause. Further, that administrative action was taken against the reporting senior (RS) and RO of the Fitrep in question as a result of a re-investigation, you did not have access to the redacted/un-redacted investigations cited in the Fitrep at the time of relief or processing of the Fitrep to make a clear rebuttal, the Mishap Aircrew were qualified and current to execute night air-air refueling, the flight lead executed a non-standard, un-briefed departure



that was approved by the crew of the other mishap aircraft who had full knowledge of the non-standard departure at time of relief, the KC-130 flight and voice recorder had not been recovered, the KC-130 intercockpit communications indicated full knowledge of the non-standard maneuver were not available to the RO or investigating officer (IO) until the first week of June 2019, the IO for the 6 May 2019 command investigation cited in the Fitrep recommended you for promotion and command of a [REDACTED] squadron two months after your relief, you were appointed as the [REDACTED] Marine Aircraft Wing F/A 18 Flight Lead Standardization Evaluator Program Coordinator, and your flight status was never revoked following your relief.

The Board, however, substantially concurred with the AO and the PERB decision that, in accordance with the Performance Evaluation System (PES) Manual, the Fitrep was administratively and procedurally correct as written and filed. In this regard, the Board noted that although the CDA determined that the previous 2018 mishap investigation did not capture a complete and accurate picture of the event, contained a number of inaccuracies, found four causal factors that led to the mishap, and a number of institutional and organizational contributing factors, it did find that you failed to properly lead, supervise, manage the staff, and ensure safe flight practices. The Board further noted that the CDA concurred with the previous command investigations that these actions ultimately led to your relief for cause as the Executive Officer (XO) as you were the head of the safety program and the senior pilot within the squadron. The Board thus concurred with the CDA's decision and determined that your relief for cause was warranted.

With regards to your contention that administrative action was taken against both the RS and RO, the board noted that you did not provide any evidence to show the nexus between the action taken and how that action would invalidate the challenged Fitrep. As such, the Board determined that this contention lacks merit. Furthermore, the Board acknowledged the IO's recommendation that you be promoted and assume command of a [REDACTED] squadron; however, the Board determined that it did not exonerate you from your responsibilities as the XO and your actions that led to the unfortunate mishap that took the lives of several Service members. The Board thus concluded that your request is lacking in sufficient evidence of an error or injustice warranting removal of the Fitrep 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,

9/17/2022

[REDACTED]