



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

█
Docket No. 5168-22
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.

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 the 29 June 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 18 April 2022 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 29 June 2022. 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 1 July 2019 to 31 December 2019 Fitness Report. The Board considered your contention that your fitness report was not in accordance with the PES Manual and that you were not counseled before or after receiving it. They also considered your contention that the report was biased and did not reflect your performance. Finally, the Board considered the letters you provided from your Reporting Senior and Reviewing Officer in support of your contentions.

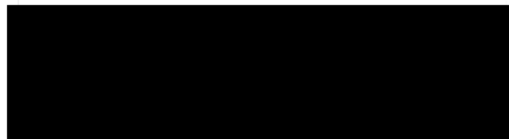
The Board, however, substantially concurred with the AO and the PERB Decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted that your application omits any specific reference to actual error or injustice in the report. The Board further noted your contention that you never received an initial or follow-up counseling, however, the challenged fitness report did not document any unsatisfactory performance and counsel is not specifically required in

conjunction with fitness report processing in accordance with MCO 1610.7A. Therefore, while the Board considered the letters you provided from your RS and RO, the Board determined you did not meet the preponderance of evidence standard to show an error or injustice exists with the report. The Board thus concluded that there is insufficient evidence of error or injustice to warrant the removal of the report from your record. 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,

9/20/2022



Executive Director

Signed by:

