

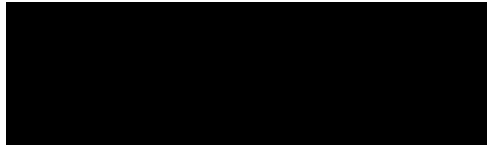


DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490



Docket No: 5400-22

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 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 16 July 2022 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and the 17 February 2022 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records & Performance Branch (MMRP-13). The AO was provided to you on 16 July 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 modify your fitness report for the reporting period 1 June 2013 to 1 May 2014 by changing the comparative assessment mark from block 5 to block 6 and to mark your fitness report as commendatory. If approved, you also request to remove your fiscal year (FY) 2023 failure of selection (FOS). The Board considered your contention that the current attribute mark does not accurately reflect your performance during the reporting period. You also contend that a change in your reviewing officer's (RO's) marking philosophy after the processing of this report unfairly drove your relative comparative assessment grade down and had a negative effect on your cumulative ranking. You claim that you received an Aviation Safety Award for recognition of 1,000 Mishap-Free Flight Hours

during the reporting period. As evidence, you furnished correspondence from your former RO and your Aviation Safety Award citation.

The Board, however, substantially concurred with the PERB decision that your fitness report is valid and should be retained as filed. In this regard, the Board acknowledged the correspondence from your former RO, and determined that his request did not contain any substantive information about your performance that was not available to him when he processed your fitness report. Moreover, the request is not timely and your RO was experienced with a well-established profile indicative of an established marking philosophy. In addition, any increase to your comparative assessment would negatively impact 51 other officers in your peer group. The Board agreed with the AO that there is no compelling argument within your application that would warrant such action. Finally, the Board determined that the Marine Corps Performance Evaluation System Manual does not provide a mechanism for ROs to reset his/her profile. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action to the fitness report. Based upon the foregoing, the Board also determined that there is no basis for the removal of your FOS. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Concerning your request to mark your fitness report commendatory, the Board determined that you have not exhausted your administrative remedies. You must submit your request to Headquarters, Marine Corps (MMRP-31) via separate correspondence.

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,

9/11/2022

[REDACTED]