



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

■
Docket No: 6062-22

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 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your fitness reports for the reporting periods 1 December 2017 to 30 April 2018 and 1 May 2018 to 30 November 2018. The Board considered your new contentions that the reporting senior (RS) refused to accept/acknowledge your statement mailed using the United States Postal Service (USPS) and would not acknowledge your direct attempts to submit a rebuttal, essentially denying acceptance of all certified correspondence. You claim that this information was shared with the Commanding Officer of Naval Personnel Command, and these acts are yet other forms of racial discrimination and bias. You also claim that when all of the points in your ongoing complaint (which is in its 5th year) are put together, it should be easily relevant that "Ominous Disparaging Acts" were

committed against a fellow Commander and Senior Naval Officer with absolutely no past disciplinary matters. As evidence, you provided copies of USPS notifications/receipts.

The Board, however, determined that your fitness reports are valid and should be retained as filed. In this regard, the Board noted that your request to remove your contested fitness report was previously considered by the Board. In addition, your contentions regarding reprisal, bias, discrimination, and the conduct of the command investigation were previously considered by the Board. After a review of your new evidence, this Board concurred with its previous findings that there is insufficient evidence to support a finding that retaliation, reprisal, or a toxic/hostile work environment existed. In making this finding, the Board also noted that the command investigation failed to substantiate the allegations against your RS, and the Navy Inspector General and Department of Defense Inspector General found no basis for your complaint and dismissed your case. Moreover, the Board substantially concurred with the previous AOs and Board's decisions that your fitness reports were written and filed according to the Navy Performance Evaluation Manual.

Regarding the submission of your fitness report statement, the Board determined that your evidence is not sufficient to substantiate a pattern of "Ominous Disparaging Acts" against you. The Board noted that your 8 September 2019 fitness report statement is on file in your record and is now a matter of record. The Board also determined that your evidence does not demonstrate that your fitness reports are in error or unjust. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of either fitness report. 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,

9/8/2022

[REDACTED]

Executive Director

[REDACTED]