

DEPARTMENT OF THE NAVY

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

> Docket No. 6963-22 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 11 October 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 2 September 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 2 August 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 were provided to you on 2 September 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 12 June 2020 to 31 December 2020 Fitness Report (FITREP). The Board considered your contention that the report contained derogatory comments that were not in compliance with MCO 1610.7A, the Performance Evaluation System (PES) Manual.

The Board, however, substantially concurred with the AO and the PERB decision that the FITREP 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 contentions highlighted just one comment from the reporting senior and one single comment from the reviewing officer. While the Board agreed the AO that the verbiage appeared to be somewhat inept, the comments were neither negative nor adverse. Further, the Board noted that the

reporting chain did not use any qualifying adverbs nor reference any minor limitations, shortcomings, occasional lapses, or weakness in the FITREP. The Board thus concluded that your request is lacking in substantial evidence of error or injustice to warrant removal of the FITREP. 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.

