



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

██████████
Docket No. 8054-22
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 12 December 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 21 October 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 8 September 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 21 October 2022. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board determined that your personal appearance, with or without counsel, would 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 26 December 2015 to 24 May 2016 Fitness Report. The Board considered your contentions that your reporting officials did not write the fitness report in accordance with the Performance Evaluation System (PES) Manual. You argue that the Reviewing Officer (RO) did not amplify the comparative assessment or evaluate your potential for continued professional development (i.e. promotion, command assessment, resident PME or retention). You also assert that the RO's assessment did not reflect

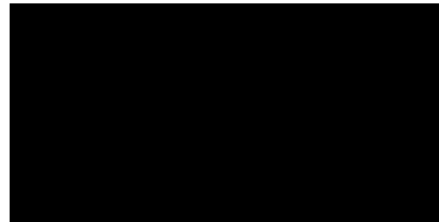
consideration of all information available and that his assessment only consisted of three sentences. Finally, the Board considered your claim that your voluntary request to terminate your flight status impacted the reporting officials' assessment on the contested report.

The Board, however, substantially concurred with the AO and the PERB decision that the fitness report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted that your RO is not required to comment on your performance. Further, the Board noted that although the comparative assessment marking of "2" is generally considered non-competitive, the marking was not adverse and did not require justification. The Board determined that you did not provide any evidence, beyond your personal statement to support your claim that your voluntary request to terminate your flight status negatively impacted their assessment of you. The Board thus concluded that your request is lacking in sufficient evidence of error or injustice of this report established in 2016.

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,

1/5/2023

A large black rectangular redaction box covers the signature area. A horizontal line extends from the right side of the redaction box.