



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

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Docket No. 9362-22
Ref: Signature Date

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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 4 April 2023. 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.

You previously applied for relief to this Board and were denied on multiple occasions starting in 1981. The Board also noted the Assistant Secretary of the Navy (Manpower and Reserve Affairs) denied your request for reconsideration on 22 December 1994.

The Board carefully considered your request to remove your 26 August 1980 to 18 January 1981 Fitness Report. The Board considered your statement and contention that although you still disagree with the substance of the fitness report, you contend that it should be removed because it is illegible and, as such, serves no purpose. You further contend that the Reviewing Officer (RO) comments were derogatory in nature and you were never afforded the opportunity to respond.

The Board, however, substantially concurred with the previous Board decisions, and associated advisory opinion, 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 AO dated 21 August 1981 noted that the RO properly adjudicated the fitness report. Further, the AO noted that the RO remarks presented no new derogatory information and therefore required

neither referral nor acknowledgement. Therefore, the Board did not find your arguments regarding your RO's comments or the processing of the fitness report to be persuasive.

In regards to your contention that the report is illegible, the Board noted that although the report is illegible, the Board noted that the blank form was inserted to assist with reading the report and that the insertion of the blank form is not a material error. Therefore, while the Board thanks you for your Honorable service to this country, they concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the fitness report in question. 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,

5/1/2023

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Executive Director

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