



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

[REDACTED]
Docket No. 3659-16

JUN 27 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC §1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 April 2017. 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, your naval record and applicable statutes, regulations and policies. The Board also reviewed the advisory opinion provided by Headquarters Marine Corps memorandum 1610 MMRP-13/PERB dated 19 April 2017 ("AO"), which was sent to you on 19 April 2016 for an opportunity to comment prior to being considered. After the 30 day period for comment expired without a response, the case was presented to the Board.

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 issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 31 March 2015, you received a transfer (TR) fitness report due your performance during the reporting period that did not meet the Reporting Senior's (RS) expectations and inability to meet the requirements of the assigned billet of crew-chief. You were afforded the opportunity to write a rebuttal statement and on 13 April 2015 you chose to do so contesting the report. On 26 February 2016, you submitted a request to the Performance Evaluation Review Board (PERB) for the fitness report in question to be removed. On 19 April 2016, the PERB denied your request.

You requested to have your fitness report be removed from your record. You asserted that the report was used in lieu of disciplinary action, that you were counseled only twice on your


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performance shortly before the end of the reporting period, that you were removed from your billet without a factual basis for the alleged offenses documented on the report, and that the fitness report was based on personal and biased expectations by your RS.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board substantially concurred with the comments contained in the AO. The Board concurred that the RS provided a detailed narrative, you provided a three page rebuttal, and the Reviewing Officer (RO) also provided answers to each of your concerns. The Battalion Commanding Officer, as the Third Officer Sighter (3OS), addressed your rebuttal to the RO's assessment as well as confirming the accuracy of the RS and RO assessments. The Board does not believe these are justifiable reasons to impose Non-Judicial Punishment (NJP) but the CO has the authority to transfer someone without disciplinary action, due to a lack of MOS proficiency and not meeting expectations. Lastly, the Board could not identify any proof, and you provided none, that the RS completed the fitness report based upon personal and biased expectations. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon submission of new evidence. New evidence is evidence not previously 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,


Executive Director