



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

■
Docket No: 4557-21
Ref: Signature Date

Dear ■:

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.

A three-member panel of the Board, sitting in executive session, considered your application on 8 February 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. The Board also considered the 15 July 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) (the PERB Decision) and the 27 April 2021 Advisory Opinion (AO) provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The PERB Decision and the AO were provided to you on 15 July 2021, and you were given 30 days in which to submit a response.

The Board carefully considered your request to mark the fitness report covering the period 2 July 2017 to 21 January 2018 as "Not Observed". You contend that your reporting senior (RS) was only present for duty 23 days during the reporting period and did not meet the minimum time requirements for an observed fitness report; you specifically note that your RS marked three attributes as 'H' Not Observed. You further argue the report is invalid as it was signed 155 days after the reporting period ended.

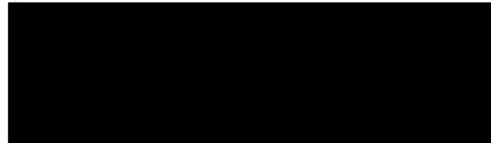
The Board noted the Marine Corps Performance and Evaluation System (PES) Manual states periods of 30 or more combined consecutive days when the RS is not available constitute as non-availability when determining minimum observation time. The Board concurred with the AO that based on the evidence provided, the RS had 128 days of observation during the reporting period. Consequently, the minimum number of 90 days required for an observed report by the PES Manual was met. The Board further agreed that late submission and the fact that three

attributes were marked Not Observed does not invalidate the report. As explained in the AO, although a late submission of a fitness report is unacceptable, it does not render a report invalid under the PES Manual. Additionally, the Board found no basis to change the entire report to Not Observed based on the RS' determination that he did not sufficient observe certain attributes. Consequently, the Board determined that the fitness report contains no material error or injustice and shall remain in your official military personnel file as written.

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,

2/16/2022

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Executive Director

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