



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. 5768-21
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.

A three-member panel of the Board, sitting in executive session, considered your application on 6 January 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 13 September 2021 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 21 June 2021 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 13 September 2021, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove your fitness report for the reporting period 1 January 2020 to 21 August 2020. In the alternative, you requested the following comment be removed from section I: "Disregard for Marines' personal safety and a demonstrated deficit in maturity and decision-making render MRO ineligible for any endorsement for promotion and retention beyond current contract." The Board considered your contention the section I comments are improper and legally insufficient because you were erroneously found guilty at nonjudicial punishment (NJP). Specifically, you contend you were not in an unauthorized absence status because you were executing "properly authorized annual leave."

The Board, however, substantially concurred with the AO and the PERB decision that the report

is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board noted you received NJP for failing to go to your appointed place of duty which was the leave address listed on your leave chit. Further, you were found guilty at NJP of failing to obey a lawful order by conducting leave outside the local area without the required approval of First Marine Corps District. The Board determined there was insufficient evidence of an error or injustice in the administration of your NJP on 21 August 2020 and concluded the "Directed by CMC" occasion fitness report remained a requirement. The Board further noted the adverse nature of the contested report allowed you an opportunity to rebut the report but you chose not to submit a rebuttal. With respect to your request to delete the section I comment, the Board noted your request is not supported by evidence warranting invalidation of the comment. The Board concluded your request is lacking in substantial evidence of error or injustice warranting removal or modification.

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,

1/27/2022

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Executive Director

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