



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

██████████  
Docket No. 4200-22  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 12 July 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 9 May 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 9 November 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 9 May 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.

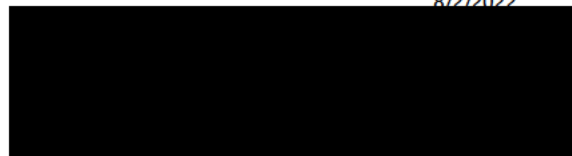
The Board carefully considered your request to modify your 1 June 2019 to 30 August 2019 Fitness Report (Fitrep) by making the report non-observed. The Board considered your contentions that you and the Reporting Senior (RS) did not have meaningful contact, you took a significant amount of leave that makes the total observation time in the work environment less than 90 days, and the amount of days on leave did not constitute minimum non-availability criteria, which was not commented on the contested Fitrep.

The Board, however, substantially concurred with the AO and the PERB decision that, in accordance with the Performance Evaluation System (PES) Manual, the Fitrep was procedurally correct as written and filed. In this regard, the Board noted that you were on leave for a total of 14 days, which were not consecutive, and did not equate to 30 days. As a result, this period of leave did not constitute a period of non-availability and the RS was not required to comment on it. Further, the Board determined that the RS was within his authority to write an observed Fitrep since the period covered in the Fitrep constituted 92 days and necessitated an observed report. The Board thus concluded that insufficient evidence of error or injustice exists with regard to the Fitrep. 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,

8/2/2022

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Deputy Director

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