



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

██████████
Docket No. 5827-22
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 20 September 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 1 August 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 16 May 2022 advisory opinion (AO) furnished by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the AO were provided to you on 1 August 2022, 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.

Regarding your request for a personal appearance, 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 remove your fitness report for the reporting period 28 October 2020 to 10 December 2020. The Board considered your contentions that the reporting chain had insufficient observation time and you were improperly evaluated and graded. You claim that during the reporting period you were on permissive temporary additional duty (PTAD) and leave for 18 days, and of the remaining 28 days, approximately 75 percent of that time was spent conducting check-in duties.

The Board, however, substantially concurred with the PERB decision that your fitness report is procedurally correct as written and filed, according to the Marine Corps Performance Evaluation System (PES) Manual. In this regard, the Board noted your periods of PTAD and leave; however, the Board determined that the 18 consecutive days did not constitute formal periods of non-availability. The Board also determined that your RS adhered to PES Manual guidance when issuing the observed fitness report for a period of performance over 31 days for a Marine of your grade at report processing. The Board thus concluded that your request lacks sufficient evidence of a probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

10/14/2022

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Deputy Director

Signed by: 