



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

█  
Docket No. 6858-23  
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 3 October 2023. 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 21 July 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 18 May 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The AO was provided to you on 21 July 2023, 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 modify the fitness report for the reporting period 11 June 2021 to 8 September 2021 by changing it to be not observed. The Board considered your contention that the period of observation was 90 days, of those, you were on leave or in a temporary additional duty status totaling 23 days. You claim that during your absence you were beyond the direct observation of your Reporting Senior (RS) and Reviewing Officer, and the RS's observation did not meet the criteria for an exception to policy.

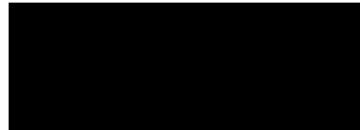
The Board, however, substantially concurred with the AO and the PERB decision that the fitness report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. In this regard, the Board noted according to the PES Manual, periods of non-availability are defined as periods of 30 or more consecutive days when the Marine or RS were not available to perform his or her duties at the reporting command. The Board determined your periods of leave and temporary additional duty did not constitute a period

of non-availability. Therefore, your absences were not a factor when determining minimum observation time. The Board also determined the PES Manual does not provide a minimum period of observation for the RO. Accordingly, the Board concluded that there is no 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,

10/18/2023

A large black rectangular redaction box covering the signature of the Deputy Director.

Deputy Director

Signed by: 