

## **DEPARTMENT OF THE NAVY**

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

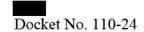
> Docket No. 110-24 Ref: Signature Date

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 6 August 2024. 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. In addition, the Board considered the advisory opinion contained in Office of the Chief of Naval Operations memorandum 7220 Ser N130C3/24U0114 of 2 February 2024 and your response to the opinion.

You requested to recover eight (8) days of lost leave, the Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that in accordance with MILPERSMAN 1050/070, when members are serving in a deployable ship, mobile unit or similar duty, permanently ported or home based outside of the 50 United States, which is required to maintain a higher than normal condition of readiness in port or at home base and have deployed or operated away from home port or home base more than 50 percent of the time, thus preventing normal use of earned leave before it is lost at the end of the fiscal year, then members are eligible for special leave accrual. The Board could not find, nor did you provide, evidence of number of days deployed to validate your eligibility for special leave accrual. You assert that you were at sea for 170 days, however that is less than the 50 percent of the time. Additionally, in your rebuttal, you assert you were supposed to stand watch for one of the drilling teams during an inspection and referenced the following table within MILPERSMAN 1050-070, which states, "the situation that is preventing members assigned to such duty from using leave must have been caused by unscheduled operational commitment, national emergency or crisis or operations in defense of



national security." The Board could not find, nor did you provide, any evidence from your command to support your assertion. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

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.

