



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

█  
Docket No. 6119-24  
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 July 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, as well as the 13 May 2024 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and 22 March 2024 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMPB-23). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to modify the fitness report for the reporting period 19 August 2018 to 20 November 2018 by changing it to be not observed; change the end date to reflect 16 November 2018; and include a period of non-availability from 21 August 2018 to 7 September 2018. The Board considered your contention that the fitness report fails to meet the minimum required observation time per the Marine Corps Performance Evaluation System (PES) Manual. You also contend the end date is after the date you checked into your next unit and the fitness report fails to take into account a period of house hunting and annual leave. You claim that you were not available for observation for 32 days during the reporting period.

The Board, however, substantially concurred with the AO and PERB's decision that your fitness report is valid as written and filed in accordance with the applicable PES Manual. In this regard,

the Board noted that the PES Manual defines a period of non-availability as “30 or more consecutive days when the MRO or the RS was not available to perform his or her duties at the reporting command or organization.” The Board also noted your leave summary and determined that your leave does not meet the criteria to qualify as a period of non-availability. Your leave was not consecutive and occurred over three-months. Concerning the end date of your fitness report, the PES Manual requires the losing command to cover periods travel and proceed. The Board determined that any change to the end date would be negligible, and the fitness report would still meet the minimum observation period. Moreover, the Board found no evidence of overlapping reporting periods that would necessitate an administrative correction to your record. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting a change to your fitness report. 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,

8/13/2024

