



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

Docket No: 5830-20
Ref: Signature Date

Dear [REDACTED]

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.

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.

A three-member panel of the Board, sitting in executive session, initially considered your application on 20 July 2021. However, prior to approval and publication of the panel's recommendation, additional information that was not available to the panel was identified. The Board reviewed this new information on 23 July 2021. 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.

The Fiscal Year (FY) 2018 Major Promotion Selection Board selected you for promotion; you were scheduled to promote to major on 1 May 2017. Your promotion was delayed pending review of adverse information. A command investigation concluded that you committed conduct unbecoming while in [REDACTED] steering a Marine Corps Embassy Security Group inspection and that you made false official statements when you subsequently lied to the investigator. The Commander, Marine Corps [REDACTED] closed the case via a Report of No Misconduct on 20 July 2017. However, the new [REDACTED] commander disagreed with his predecessor and recommended you show cause at a Board of Inquiry (BOI). On 17 October 2018, the BOI substantiated the allegations of false official statement and conduct unbecoming, but recommended your retention. The Deputy Commandant for Manpower and Reserve Affairs

(DC M&RA), closed the case and directed adverse material be entered into your Official Military Personnel File (OMPF) on 5 May 2019. On 17 December 2019, the Commandant of the Marine Corps (CMC) recommended that you be removed from the FY18 USMC Major Promotion Selection List and on 23 January 2020, the Secretary of the Navy (SECNAV) removed you from the FY18 USMC Major Promotion Selection List. This constituted your first failure of selection (FOS) for promotion.

The Board carefully considered your request for reinstatement to active duty, promotion in accordance with the FY18 Major Promotion Selection List, and removal of the adverse material relating to the 2017 investigation from your OMPF. In the alternative, you requested a special selection board (SSB) for FY 2020. You argue that your promotion was delayed unjustly after the [REDACTED] commander found no misconduct and closed your case on 20 July 2017.

The Board noted that the Commander, [REDACTED] had the authority to recommend a BOI and that the Commanding General (CG), Marine Corps [REDACTED] appropriately directed you to show cause at a BOI. The Board further noted that the adverse information was not available to the promotion selection board at the time the board convened. In addition, the CMC stated that he did not recommend your promotion, as your actions were not in keeping with what is expected of a naval officer. Consequently, the Board determined that it would not recommend SECNAV reverse the decision to remove you from the FY18 USMC Major Promotion List.

As to the alternative request for a FY20 SSB, the Board noted that in accordance with Title 10, an officer who is in a delay or withhold status is not eligible for any other Title 10 Statutory Promotion Selection Board as the officer is still a select from the previous board. The FY20 Major Selection Board convened on 14 August 2018; the FY21 Major Section Board convened on 19 August 2019. Since you were still on the FY18 Major Promotion Selection List at the time the FY20 and FY21 board convened; you were not eligible. You were eligible for the FY22 Major Selection Board; however, you were not selected and this constituted your second FOS.

SECNAVINST 1420.1 states that a SSB is convened when the action of the promotion selection board was contrary to law, involved material error of fact or material administrative error, or that the board lacked some material information for consideration. The Board determined there was no error in your case for the FY22 Major Promotion Selection Board. You admitted to violating articles of the Uniform Code of Military Justice (UCMJ) at the BOI, which substantiated misconduct, and adverse information was placed in your OMPF in accordance with DC M&RA direction. Consequently, the Board determined that the adverse material was not unjustly entered and shall remain in your OMPF and a SSB is not warranted.

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,

8/5/2021

[Redacted Signature]

Executive Director

Signed by:

[Redacted Name]