



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

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Docket No: 562-21
Ref: Signature Date

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Dear █

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 23 November 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 Board also considered the 6 October 2021 advisory opinion (AO) furnished by Headquarters Marine Corps Manpower and Reserve Affairs (MMPR-2). The AO was provided to you on 21 October 2021, and you were given 30 days in which to submit a response.

You were not selected for promotion to the rank of Gunnery Sergeant (GySgt) at the Fiscal Year (FY) 2008, FY 2009, and FY 2010 Gunnery Sergeant Promotion Selection Boards. You retired and transferred to the Fleet Marine Corps Reserve (FMCR) on 30 September 2010. On 22 December 2016, you petitioned the Performance Evaluation Review Board (PERB) to correct errors on fitness reports covering the periods 14 April 2008 to 31 October 2008 and 1 November 2008 to 31 December 2008. On 19 June 2017, the PERB directed removal of comments in both fitness reports. The Board carefully considered your request to be retroactively promoted to GySgt because you were unjustly denied promotion at the Gunnery Sergeant Promotion Selection Boards due to negative comments in the fitness reports that have since been removed.

The Board noted that the FY 08 Gunnery Sergeant Selection board convened from 15 April to 09 June 2008. Thus, the FY 08 GySgt Promotion Selection Board did not consider the contested reports in making their determination and there is no evidence of material error or injustice regarding your non-selection for the FY 08 board. The Board further noted that it was six years after you retired and eight years after you received the fitness reports before you petitioned for

changes. MCO P1400.32D states that all applications for enlisted remedial selection boards must be received no later than three years after the date of the contested board results were made public and that requests made after this time period will be deemed untimely and will be denied. The Board concurred with the AO that you did not exercise due diligence in getting your record corrected in time for the FY 09 and FY10 GySgt Promotion Selection Boards. Consequently, the Board determined there is no evidence of material error or injustice regarding your non-selection for the FY 2009 and 2010 boards and that your request for retroactive promotion to GySgt is not warranted.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

12/21/2021

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Deputy Director

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