



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: 1954-21

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.

A three-member panel of the Board, sitting in executive session, considered your application on 14 December 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, as well as the 29 April 2021 advisory opinion (AO) furnished by the Navy Personnel Command (NPC), (PERS-80). The AO was provided to you on 4 May 2021, 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 remove your 18 January 2018 Voluntary Declination of Human Resources (HR) Command Assignment letter and all supporting documents. You also request a Special Selection Board (SSB) for the Fiscal Year (FY) 2021 and FY 2022 Navy Captain (CAPT/O-6) Promotion Selection Boards. The Board considered your contention that you should not have been forced to decline your HR command assignment so soon after giving birth to twins. You claim that you requested a one year deferment because you were pregnant with multiples. You also claim that two months after the birth of your twins you were required to select another set of command orders or to decline command. You believed that you were within your right not to select orders because you were approved for deferment, deferment/declining command due to family situations is not unique, and your request impacts other advanced age women that wait to have children. As evidence, you furnished a timeline of events and medical documents.

The Board noted your request to decline command, your justification for the request, and your acknowledgement that you would be removed from future milestone and command considerations. The Board also noted that the Deputy, Chief of Naval Personnel (CNP) approved your declination request and indicated that your request and his letter would be included in your record. The Deputy CNP noted that you were counseled about your decision and the limitation that declination would place on future assignments and promotions. The Deputy, CNP also noted that your decision was made with full knowledge of potential consequences and that your name would be removed from the command tour list and applicable selection board results. The Board determined that you were fully informed regarding the potential consequences of your decision to decline command. The Board also determined that your declination of command letter was included in your record according to regulations and found no evidence that your requirement to select an assignment or decline command violated regulations and you provided none.

Concerning your request for a SSB, the Board substantially concurred with the AO that a SSB is not warranted. In this regard according to SECNAVINST 1402.1, when an officer is considered but not selected by a promotion selection board, that officer may request that the Secretary of the Navy convene a SSB, and must set forth grounds for convening a SSB and demonstrate, by a preponderance of evidence that grounds for convening a SSB exist. The Board noted that your record was correctly represented during both promotion selection boards. The Board determined that you have not established grounds to convene a SSB by a preponderance of the evidence. 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,

1/11/2022

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Deputy Director

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