



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. 3380-21
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 applications on 18 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

The Board carefully considered your request to convene a Fiscal Year (FY) 2017 Enlisted Remedial Selection Board (ERSB) to consider you for selection to the grade of sergeant major (SgtMaj)/E-9, and that all systems and documents reflect your promotion to SgtMaj. You also request that you receive all pay and allowances retroactive to the date of promotion.. You assert that you exhausted all measures beginning in 2016 while on active duty, through the Department of Defense Inspector General's Office, and within the Department of the Navy.

The Board also considered that a previous panel of this Board removed your adverse 13 October 2016 Page 11 counseling entry, your adverse fitness report for the reporting period 1 May 2016 to 13 October 2016, and your 28 November 2016 nonjudicial punishment (BCNR Docket No. 8736-19). Furthermore, the Board considered the Headquarters Marine Corps Manpower and Reserves Affairs (MMPR-2) letter denying your request for remedial consideration, noting your request was considered to be untimely. You contend that the previous panel of this Board took fifteen months to consider your petition to remove derogatory material from your official military personnel file (OMPF), and consequently, there was no prudent way for you to submit a request timelier for remedial consideration.

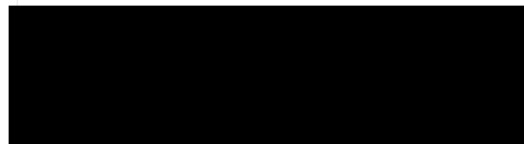
The Board, however, determined that your contentions are without merit. In this regard, the Board noted that you voluntarily requested transfer to the Fleet Marine Corps Reserve (FMCR) on 7 September 2016. The Board also noted that the FY 2017 Active-Duty Sergeant Major through Master Gunnery Sergeant Promotion Selection Board convened on 19 October 2016 and the results were made public on 4 November 2016. Pursuant to the Marine Corps Promotion Manual, Volume 2, Enlisted Promotions (MCO P1400.32D W/CH 2) Marines who are eligible for selection consideration and voluntarily request transfer to the FMCR prior to the adjournment of the appropriate selection board will be removed from the eligible population and will not be considered for selection.

The record also reflects that you voluntarily requested transfer to the FMCR “due to multiple medical conditions” and that your request to retire was submitted prior to the convening of the FY 2017 Promotion Selection Board, and prior to the now-removed derogatory material being inserted into your OMPF. The Board thus concluded that, by your own voluntary actions, you were not eligible for promotion consideration by the FY 2017 Promotion Selection Board. Moreover, the Board was not convinced that you intended to remain on Active Duty in order to serve the time-in-grade service obligation, had you been selected and promoted. Lastly, the Board was not convinced that the derogatory material, now removed from your OMPF, was a factor in your decision to request for transfer to the FMCR on 7 September 2016, since none of the derogatory material was issued until after you submitted that request.

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,

12/5/2021

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Deputy Director

Signed by:

A black rectangular redaction box covering the name of the Deputy Director.