



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

█
Docket No: 4357-21

Ref: Signature Date



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 25 January 2022. 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 carefully considered your request for remedial promotion consideration by the Fiscal Year (FY) 2016 Master Sergeant (MSgt/E-8) through Sergeant Major (SgtMaj/E-9) enlisted remedial selection board (ERSB). Alternatively, you request consideration for promotion by the FY 2017 and FY 2019 E-8/E-9 ERSB. The Board considered your contentions that your reporting senior (RS) issued a negative fitness report for the reporting period 24 February 2010 to 11 September 2010 due to personal reasons, and the Performance Evaluation Review Board (PERB) removed the fitness report during June 2020.

The Board noted that you previously requested remedial consideration for promotion to E-8 during the FY 2016 through FY 2020 ERSB. Your request was approved; however, according to the 31 August 2020 MMPR-2 notification, you received remedial consideration for promotion for the FY 2020 ERSB, after a comparison of your record with those competing within your primary military occupational specialty you were not selected for promotion. The Board also noted that according to the Marine Corps Enlisted Promotions Manual (MARCORPROMAN), Marines will normally be granted remedial consideration for all selection boards affected by the error or injustice, beginning with the first board following the error or injustice, except where the

provisions of due diligence or other restrictions apply. In this regard, due diligence requires that you identify errors, discrepancies, or an injustice in a timely manner and initiate appropriate corrective action. The Board noted, too, that you did not attempt to remove the contested fitness report until 2015, five years after your fitness report was processed, and you took no additional action until 2019. The Board determined that your evidence was insufficient to demonstrate that you exercised due diligence to warrant consideration by the FY 2016 through FY 2019 ERSB, accordingly, you were properly considered for promotion by the FY 2020 ERSB. The Board further noted that you were transferred to the Fleet Marine Corps Reserve (FMCR) on 31 October 2020 and according to the MARCORPROMAN, Marines who have transferred to the FMCR are not eligible for remedial consideration for promotion.

You also indicated in your application that you were the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude that you were the victim of reprisal in violation of 10 USC § 1034. 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,

2/10/2022

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Executive Director

Signed by: █