



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

█  
Docket No. 4771-21  
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 10 February 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, as well as the 31 August 2021 Advisory Opinion (AO) provided by Navy Personnel Command, Office of Legal Counsel (PERS 00J). The AO was provided to you on 3 September 2021. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

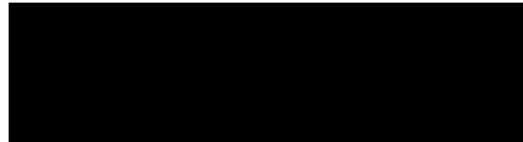
The Board carefully considered your request to “reinstate” you to the grade of Chief Petty Officer and award you monetary back pay and allowances as if you had been advanced to Chief on 16 July 2018. The Board considered your contention that you did not sign the Evaluation and Counseling Record (EVAL) for the reporting period 16 September 2017 to 11 July 2018, which withdrew the Commanding Officer’s (CO) promotion recommendation, until after the “date of rank was achieved.” Specifically, you contend that since you did not sign the EVAL until 16 July 2018, which was the “date of rank achieved,” the CO did not properly withhold or withdraw your advancement so, by instruction, your advancement automatically posted. In support of your contention, you provided a July 2018 Leave and Earnings Statement reflecting the change in paygrade. The Board also considered your contention the correction should be made because, during the administrative separation process, it was determined the investigation was poorly conducted.

The Board, however, substantially concurred with the AO that your advancement was properly withheld by the CO and your selection terminated when the withheld advancement was not reinstated prior to the 31 August 2018 limiting date. Specifically, the Board determined the CO properly and timely withheld your advancement in compliance with BUPERSINST 1430.16F. The Board noted the CO withheld your advancement to E-7 by using the appropriate Administrative Remarks (Page 13) entry on 9 July 2018 and sending a message on Naval Personnel Command on 10 July 2018. The Board further noted your acknowledgement of signing the entry which confirms you had notice your advancement had been withheld. The Board, noting that failure to reinstate a previously withheld advancement prior to the limiting date for the advancement cycle terminates a member's selection, concluded your selection was terminated on 31 August 2018, the limiting date for the advancement cycle. The Board concluded there was insufficient evidence of an error or injustice in your record warranting your requested relief.

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,

3/8/2022

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Deputy Director

Signed by: 