



**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: 5074-21  
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 8 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) furnished by Headquarters, Marine Corps Manpower Management Enlisted Promotions Branch (MMPR-2). The AO was provided to you on 7 September 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request for promotion to Sergeant Major (SgtMaj/E-9) and correction of your DD Form 214 to reflect the grade SgtMaj. The Board considered your contention that the Marine Corps' failure to grant your request for an exception to policy was arbitrary and capricious, specifically because the reasons cited for denying the request are the very same reasons that an exception to policies exist. You also contend that the exclusion of any phrase indicating that the policy was to retroactively effect those Marines who had been selected

for promotion previously, but who were not yet promoted is demonstrative of the drafter's intent that MARADMIN 334/20 be inapplicable to those Marines who had been previously selected for promotion. You argue that because you were selected for promotion prior to the date of MARADMIN 334/20, the change in policy should not be applicable to you. You claim that you were selected for promotion and frocked to SgtMaj on 13 February 2020, you requested to swap Permanent Change of Station orders (PCSO) with another Marine, the request was made to support your fiancé and to situate the other Marine closer to his family and because your request was denied, you were forced to choose between extending your contract to the detriment of your family or walking away from your career without being eligible for retirement. You also claim that despite initially obtaining favorable endorsements, those endorsements were pulled out from under you, in what appears to be a clear case of unlawful command influence and a failure of certain Marines to fully and carefully consider your request prior to rendering a decision.

The Board, however, substantially concurred with the AO that your record remain unchanged. In this regard, the Board noted that MARADMIN 334/20 provided that "Commencing in July 2020, Marines who are selected to the ranks of Staff Sergeant through Sergeant Major/Master Gunnery Sergeant to include meritorious promotions must have at least 24-months of obligated service remaining on contract beginning on the date of their promotion" and "[i]f a Marine refuses to extend or reenlist to have sufficient obligated service, the commander should inform the CMC (MMPR-2) of the Marine's refusal . . . the CMC (MMPR-2) will remove the Marine's name from the appropriate selection list and the Marine will become ineligible for promotion consideration in the future." The Board also noted that your request for promotion without the required 24 months of obligated service and for transfer to the Fleet Marine Corps Reserve (FMCR) effective 30 April 2022 was submitted after MARADMIN 334/20 was promulgated. The Board determined that the Marine Corps was not obligated to approve your request for an exception to policy and found no evidence to support your contention that the decision to deny your request was arbitrary or capricious, or due to unlawful command influence and you provided none.

Concerning your contention that MARADMIN 334/20 should not apply to your case, the Board determined that your contentions lack merit. Based upon your statement, you were aware that the policy pertained to your case and you were aware of the consequences for refusing to extend or reenlist. Moreover, the Board noted that your request for retirement was submitted prior to your promotion. The Board thus determined that according to the Marine Corps Enlisted Promotion Manual, Marines who have been selected for promotion, but request transfer to the FMCR prior to being promoted at an official ceremony will be administratively deleted from the selection list. 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,

2/24/2022

[REDACTED]

Executive Director

[REDACTED]