



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

█
Docket No: 6141-21
Ref: Signature Date

Dear █

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 15 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 the 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 determined that your personal appearance, with or without counsel, would 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.

On 15 March 2018, Commander, Navy Personnel Command (NPC) informed you that the original fitness report for the period of 4 January 1999 to 30 September 1999, extended to 14 October 1999 was removed from your record and that a memorandum for continuity would be placed in your official military personnel file (OMPF). On 22 December 2020, you submitted to NPC a request for a Special Selection Board (SSB) to consider you for the rank of Commander (O-5). NPC denied your request for a SSB on 12 July 2021.

The Board carefully considered your request to direct a SSB and reinstatement to O-5 with back pay. You argue that a SSB is warranted because the Fiscal Year (FY) 2003, FY 2004, FY 2005, and FY 2006 O-5 Line Reserve Officer promotion selection boards considered the adverse report that was subsequently removed from your OMPF and denied you promotion.

The Board notes that SECNAVINST 1420.1 states a SSB is warranted when there is evidence that (1) the promotion selection board (PSB) acted contrary to law in a matter material to the decision of the board; (2) the action of the PSB involved material error of fact or material administrative error; or (3) material information was not before the PSB for its consideration. In addition, the officer requesting the SSB must demonstrate by a preponderance of the evidence that the officer exercised reasonable diligence to ensure that their record was substantially accurate and complete prior to the convening of the FY PSB.

The Board concurred with the 12 July 2021 NPC decision that your request does not meet the requirements to convene an SSB. The Board determined that while your fitness report was a material error and may have contributed to your non-selection, you failed to show by a preponderance of the evidence that you exercised reasonable diligence to correct your record prior to the convening of the promotion selection boards. You received your adverse fitness report in 1999; you did not begin to refute the evaluation until 2004 by sending a letter to the report's reporting senior. There is no evidence that you took any other measure to ensure your official record was corrected until after your discharge in 2006. Accordingly, the Board determined the preponderance of the evidence does not support granting you the relief requested.

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,

2/23/2022

