



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: 1737-22
Ref: Signature Date

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Dear Petitioner:

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 23 May 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 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.

The Board carefully considered your request for a Fiscal Year (FY) 2018 Enlisted Remedial Selection Board (ERSB) to consider you for selection to the grade of gunnery sergeant (GySgt)/E-7. The Board considered your contentions that, on 5 March 2021, you had a 19 May 2011 Page 11 removed by Marine Corps Records and Performance Branch (MMRP) and that you exercised reasonable diligence in the past three years to warrant proper consideration to be reassessed by the FY18 ERSB. You assert that if three tiers of oversight and administrative scrutiny couldn't spot the deficiency, it stands to reason that it could be beyond the scope of an average Marine to do so. You also contend that the page 11 impaired your competitiveness for promotion selection. Finally, you requested expedited consideration due to possible forced retirement on 16 June 2023.

The Board, however, determined that your contentions are without merit. Pursuant to MCO P1400.32D W/CH 1, Marines are responsible for exercising due diligence to ensure their record is complete before a board convenes. Due diligence requires that a Marine identify errors, discrepancies, or an injustice in his or her record in a timely manner and initiate appropriate corrective action. While the Board considered your argument that it was beyond your ability to identify the error with your page 11, the Board was not persuaded by this argument. First, the exercise of due diligence is not limited to the ability of a Marine to identify errors in their record. Marines may use any means necessary to identify errors in their record. Second, by your own admission, you commenced the review of your record after you were passed over by the FY18 selection board. MCO P1400.32D W/CH 1 requires that the exercise of due diligence occur prior to the convening of the selection board which did not select the Marine. Therefore, based on these factors, the Board concluded you did not exercise due diligence prior to the FY18 selection board and there is no error or injustice in the decision to deny your request to be considered for the FY18 ERSB. Accordingly, the Board determined there was insufficient evidence of an error or injustice that warrants relief in your case.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

6/6/2022

