

DEPARTMENT OF THE NAVY

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

> Docket No. 2223-22 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 8 September 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. In addition, the Board also considered the advisory opinion by Navy Personnel Command memorandum 5420 PERS-80 of 20 July 2022, which was previously provided to you. You were afforded an opportunity to submit a rebuttal, but did not do so.

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.

You requested appointment to Lieutenant (LT)/O-3 effective 1 October 2019 with pay and allowances and correction to DD Form 214, Certificate of Release or Discharge from Active Duty dated 30 November 2021. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that you do not meet the criteria for promotion in accordance with Title 10 U.S.C. 629. Specifically, the law indicates "Under regulations prescribed by the Secretary concerned, if an officer on the active duty list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter, but before being promoted, the officer's name shall be administratively removed from the list of officers recommend for promotion."

A review of your record indicates you were informed on 4 October 2019, the Secretary of the Navy (SECNAV) removed you from the Fiscal Year 2019 Active Duty Navy LT/O-3 All-Fully Qualified-Officer List (AFQOL). Thereafter on 22 April 2020, SECNAV withheld your Fiscal Year 2020 Active Duty Navy LT/O-3 AFQOL #2 nomination for promotion to LT/O-3. On 23 December 2020, you requested to resign your commission effective 1 November 2021; it was approved with an effective date of 30 November 2021. On 22 November 2021, you were advised, "Following SECNAV's review, the Secretary of Defense approved your promotion." However, this notification also indicated, "This letter does not authorize your immediate promotion. A forthcoming NAVADMIN message will be the authority to effect your promotion and your date of rank." Because your 30 November 2021 discharge was not processed until 8 February 2022, your name inadvertently remained on the promotion list promulgated on 27 January 2022. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

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.

